

## IMPLEMENTING EUROPEAN ENVIRONMENTAL LAW STANDARDS IN KOSOVO

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### *-Abstract-*

As the environment increasingly emerges as a global concern, international entities like the European Union have set forth minimum standards to address cross-border environmental impacts. Even though these standards are binding only for the EU Member States, they are also being followed from the potential candidate states like the Republic of Kosovo as a path towards their accession in the European Union organization. This article analyses exactly this issue, the harmonization and implementation of European Union Legal Instruments in the national level. The article offers a three dimensional analysis of the Environmental National Legislation, respectively its adoption and harmonization with EU standards, its implementation and lastly its criminalization in order of guaranteeing its application.

**Keywords:** Environment, Kosovo, EU Standards

### **I. INTRODUCTION**

Currently, the environment is the most common issue of discussion in most international forums as a result of its degradation and the effects of this degradation in the ecosystem of the world. Environment is considered a common issue of all countries, considering that its degradation in any country affects the ecosystem of other countries around and beyond. As a reaction to this issue and with the objective of protecting the deterioration of the environment, since the mid of 1960s, different countries started to include environment in their national legislation.<sup>1</sup>

Being a common issue of concern, environment became an international concern in the beginning of 1970-s and as a response to it, the international community started on establishing an international legislation on environment which found a new field of international law we know now as international environmental law. One of the first events organized under this format is the United Nations Conference on the Human Environment, which was held in Stockholm in 1972 and brought the first international environmental law document including

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<sup>1</sup> Peter Malanczuk. Akehurst's modern introduction to international law (7<sup>th</sup> revised edition, Routledge 2002) 241

a common declaration of UN member states, an action plan for the human environment and five resolutions concerning institutional and financial arrangements, world environment day, nuclear weapons tests, convening of a second UN Conference on the Human Environment and expression of thanks.<sup>2</sup> Especially Principles 21 and 22 of the common declaration are considered as the cornerstone of the modern international environmental law.<sup>3</sup> Respectively, Principle 21 calling to all member states “*to ensure that the activities within their jurisdiction and control do not cause damage to the states or areas beyond the limits of national jurisdiction*” and recognizes the “*sovereign right of states to exploit their own environmental policies in accordance with the United Nations Charter and the principles of international law*”.<sup>4</sup> On the other hand, Principle 22 invites states “*to develop further international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such states to areas beyond their jurisdiction*”.<sup>5</sup>

Before and after the Stockholm Conference, several conventions dealing with concrete environmental issues were adopted, like the oil pollution of sea,<sup>6</sup> pollution of rivers and lakes,<sup>7</sup> air pollution,<sup>8</sup> use of nuclear energy,<sup>9</sup> protection of nature and the conservation of species,<sup>10</sup> transport and disposal of hazardous waste<sup>11</sup> and also about environmental modification<sup>12</sup>. On the other hand, The World Charter for Nature adopted from United Nations in 1982 is another important development concerning environment which established five

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<sup>2</sup> United Nations, Report of the Conference on the Human Environment, UN Doc. A/Conf. 48/14/Rev.1 (1972) Stockholm

<sup>3</sup> Peter Malanczuk. Akehurst's modern introduction to international law (7<sup>th</sup> revised edition, Routledge 2002) 242

<sup>4</sup> United Nations, Stockholm Declaration on the Human Environment, Report of the United Nations Conference on the Human Environment, UN Doc. A/Conf. 48/14/ Rev.1. Stockholm, 1972, Principle 21.

<sup>5</sup> United Nations, Stockholm Declaration on the Human Environment, Report of the United Nations Conference on the Human Environment, UN Doc. A/Conf. 48/14/ Rev.1. Stockholm, 1972, Principle 22.

<sup>6</sup> See generally: International Convention for the Prevention of Pollution of the Sea by Oil (1954), International Convention on Civil Liability for Oil Pollution Damage (1969), International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969), International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971), Convention of the International Maritime Organization (IMO) on Oil Pollution, Preparedness, Response and Co-operation (1990).

<sup>7</sup> See generally: Convention on the Protection of Lake Constance Against Pollution (1960), Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972), International Convention for the Prevention of Pollution from Ships (1973), Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (1973), Convention on the Prevention of Marine Pollution from Land-Based Sources (1974), Convention on the Protection of the Marine Environment of the Baltic Sea Area (1974), Convention for the Protection of the Mediterranean Sea Against Pollution (1976), Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution (1978), Convention for the Protection of the Marine Environment of the North-East Atlantic (1992), Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992).

<sup>8</sup> See generally: Geneva Convention on Long-Range Transboundary Air Pollution (1979).

<sup>9</sup> See generally: Conventions on Third Party Liability in the Field of Nuclear Energy (1960 and 1963), Vienna Convention on Civil Liability for Nuclear Damage (1963), Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (1971),

<sup>10</sup> See generally: Convention on Wetlands of International Importance, especially as Waterfowl Habitat (1971), Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973), Convention on the Preservation of Migratory Species of Wild Animals (1979), Convention on the Conservation of European Wildlife and Natural Habitats (1979).

<sup>11</sup> See generally: Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989), OAU Bamako Convention on the Ban of the Import into Africa and Management of Hazardous Wastes within Africa (1991).

<sup>12</sup> See generally: Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (1977).

principles of conservation calling that all human conduct affecting nature should be guided and judged and also emphasized that natural systems should be taken into account in all social and economic developments.<sup>13</sup>

However, this paper will have in its focus the environmental legislation and its implementation in Kosovo. Respectively, its approximation with the European Environmental Law Standards. In the first chapter, in general terms it will analyse the legislation of European Union regarding to the protection of environment and the mechanisms that guarantee its implementation. Further on, it will be analysed the environmental legislation in Kosovo and its approximation with the European Union Legislation and based on what agreements Kosovo has taken obligations to approximate its legislation on environment with the European Union one. On the third chapter, the article will be focused on the mechanisms that have been established so far to guarantee the implementation of environmental law legislation in Kosovo including the challenges and the successes so far. The last chapter will analyse shortly the prosecution of crimes that have to do with the degradation of environment, what are the adoptions that have been made so far in the Kosovo Criminal Code and how much these adoptions are in accordance with the European Union Legislation.

## **II. EUROPEAN ENVIRONMENTAL LEGAL INSTRUMENTS AND THEIR IMPLEMENTATION BODIES**

Over the decades, the European Union has developed some of the world's highest environmental standards consisting of different legal instruments based on a hierarchy order and characterized by different enforceability standards. In the late of 1980s and 1990s, the Environmental Law gained a wider focus and the legitimacy to be regulated through concrete EU Legal instruments.<sup>14</sup> Since then, EU Environmental Law has been regulated through internal EU treaties, treaties of EU with other entities, regulations, directives, decisions, and also through the judgements of the European Court of Justice.

Most of the EU environmental legislation is regulated through Directives. Directives are binding legal instruments only for the member states to whom they are addressed and to the addressed states is left the choice of what forms and methods they will use in order to achieve the objectives of the given directives.<sup>15</sup> Directives are directed to certain member states calling for adaptation of certain internal legislation and then through national legislation they have a direct effect to the life of EU citizens.<sup>16</sup> The EU Directives on environment-related issues adopted so far include those managing air quality,<sup>17</sup> water environment,<sup>18</sup> waste,<sup>19</sup> energy and

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<sup>13</sup> United Nations, World Charter for Nature: Resolution 37/7, UN General Assembly, New York, 1982

<sup>14</sup> Molly Elizabeth Hall, "Environmental Law in the European Union: New Approach for Enforcement" (2006) 20 Tulane Environmental Law Journal 283

<sup>15</sup> Isabelle Laborde, "Sources of European Environmental Law" (2011) 25 Natural Resources & Environment 54

<sup>16</sup> Armin Cuyvers, "The Scope, Nature and Effect of EU Law" in East African Community Law (Brill Nijhoff, 2017) 161-181 at 171

<sup>17</sup> See generally: Air Quality Directive (2008/50/EC); Directive No. 2004/70/EC on arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air; Directive No. 70/220/EEC on measures to be taken against air pollution by emissions from motor vehicles; Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations; Directive No. 2001/81/EC on national emission ceilings for certain atmospheric pollutants; Directive No. 96/61/EC on prevention and control of pollution from industrial plants.

<sup>18</sup> See generally: Water Framework Directive (2000/60/EC); Directive No. 91/271/EEC concerning Urban Waste-Water Treatment; Directive No. 98/83/EC on the quality of water intended for human consumption.

<sup>19</sup> See Generally: Waste Framework Directive (2008/98/EC), Emissions Trading Directive (2003/87/EC), Renewable Energy Directive (2009/28/EC), Renewable Energy Directive II (RED II) ((EU) 2018/2001), Energy Efficiency Directive (2012/27/EU); Directive No. 86/278/EEC on Sewage Sludge; Directive No. 2000/53/EC on end-of-life vehicles (ELV); Directive 2011/65/EU on the restriction of the use of certain hazardous substances in

climate change,<sup>20</sup> dangerous substances,<sup>21</sup> environment liability,<sup>22</sup> nature and wildlife<sup>23</sup> and industry<sup>24</sup>.

EU Environmental Law is regulated also by a number of Regulations which have a higher hierarchy in the EU legislation considering that they are addressed towards all member states of the European Union and member states are binding to apply the same directly without any requirement to transpose them to the national law. However, member states might amend their national legislation to guarantee the applicability of the regulations and on the other hand national legislation to be in full compliance with the last. In this regard, EU Regulations 'ensure the uniform application of EU law in all Member States whilst preventing the application of incompatible domestic legislation'.<sup>25</sup> Currently, the EU Regulations on environmental law address several issues, including energy and climate change,<sup>26</sup> dangerous substances<sup>27</sup> and waste<sup>28</sup>.

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electrical and electronic equipment; Directive No. 2002/95/EC on Waste Electrical and Electronic Equipment (WEEE); Directive No. 1999/31/EC on the Landfill of Waste.

<sup>20</sup> See generally: Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO<sub>2</sub> emissions in respect of the marketing of new passenger cars; Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC; Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms; Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community; Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

<sup>21</sup> See generally: Directive 67/548/EEC Dangerous substances.

<sup>22</sup> See generally: Environmental Liability Directive (2004/35/EC).

<sup>23</sup> See generally: Birds Directive (2009/147/EC); Habitats Directive (92/43/EEC); Council Directive No. 1999/22/EC relating to the keeping of wild animals in zoos; Directive No. 83/129/EEC concerning the importation into Member States of skins of certain seal pups and products derived therefrom.

<sup>24</sup> See generally: Industrial Emissions Directive (IED) (2010/75/EU); Directive No. 2012/18/EU SEVESO III on the control of major-accident hazards involving dangerous substances; Directive 2004/42/CE of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products.

<sup>25</sup> Isabelle Laborde, "Sources of European Environmental Law" (2011) 25 *Natural Resources & Environment* 53

<sup>26</sup> See generally: Effort Sharing Regulation ((EU) 2018/842), Regulation 2037/2000/EC phasing out ozone depleting substances; Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny; Commission Regulation (EU) No 291/2011 of 24 March 2011 on essential uses of controlled substances other than hydrochlorofluorocarbons for laboratory and analytical purposes in the Union under Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer; Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change; Commission Regulation (EU) No 744/2010 amending Regulation (EC) No 1005/2009 on substances that deplete the ozone layer, with regard to the critical uses of halons; Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases; Commission Regulation (EC) No 1494/2007 of 17 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the form of labels and additional labelling requirements as regards products and equipment containing certain fluorinated greenhouse gas.

<sup>27</sup> See generally: Regulation 1907/2006/EC on the registration, evaluation, authorisation and restriction of chemicals (REACH); Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures; Regulation (EC) No. 689/2008 on the export of chemicals, namely Regulation No. 649/2012/EU for export-import -PIC procedure; Regulation No. 648/2004/EC on Detergents.

<sup>28</sup> See generally: Regulation 1013/2006/EC on shipment of waste.

On the other hand, decisions of related EU mechanisms are the other source of EU Environmental Law which are adopted to regulate certain issues of national' legislation of EU Member States.<sup>29</sup> They have an entirely binding effect for the Member States to whom they are addressed and they are effective either directly or after a transposition of the national legislation of the state to which the decision is directed.<sup>30</sup>

On regard to the implementation of the above mention legal instruments, exists a hierarchy of mechanisms. At the top of the responsible mechanisms to monitor and guarantee the implementation of EU Legal Instruments in Member States is the European Commission. It monitors the correct and timely implementation of EU legal instruments depending to which Member States they are addressed and because of this the Commission is entitled as the 'guardian of the treaties'.<sup>31</sup> In case, a Member State fails to incorporate an EU Legal Instrument in fully accordance with EU legislation and in its foreseen timeline then the Commission is authorized to start the formal infringement proceedings<sup>32</sup> against the country in question.<sup>33</sup>

Additionally, except the European Commission, the European Union has established specific mechanisms which are responsible to monitor and give a hand on the implementation of EU environmental instruments. European Chemicals Agency is one of this kind mechanisms, which is responsible to monitor and help out the implementation of EU's chemicals legislation to protect the health and environment among its role as a mechanism to monitor the well-functioning of the internal market, innovation and the competitiveness of the chemicals industry of Europe.<sup>34</sup> Another mechanism among others, responsible to contribute on the well-implementation of the EU environmental legislation is the European Environment Agency. This agency is tasked on developing The European Environment Information and Observation Network<sup>35</sup> and coordinating its activities through the close cooperation with National Focal Points<sup>36</sup> which consist of national environment agencies and environment agencies.<sup>37</sup> Part of this agency are in total 31 member countries consisting of 27 EU Member States together with Iceland, Liechtenstein, Norway, Switzerland and Turkey and 6 cooperating countries consisting of all six Western Balkan Countries.

However, there are many cases when EU Member States fail to implement the EU legal instruments. EU has noticed three main forms of how states fail to fulfil their obligations towards the EU. Respectively, the failure to notify measures on transposing an EU directive, non-compliance of national legislation with EU one and the cases when there is a bad/incorrect

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<sup>29</sup> See generally: Decision 2006/944/EC determining the respective emission levels allocated to the Community and each of its Member States under the Kyoto Protocol pursuant to Council Decision 2002/358/EC, Decision 2000/532/EC replacing decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/904/ECC on hazardous waste, Decision 2003/80/JHA on the protection of the environment through criminal law.

<sup>30</sup> Isabelle Laborde, 'Sources of European Environmental Law' (2011) 25 Natural Resources & Environment 54

<sup>31</sup> European Commission, 'What the European Commission does in Law' (22 December 2023) [https://commission.europa.eu/about-european-commission/what-european-commission-does/law\\_en](https://commission.europa.eu/about-european-commission/what-european-commission-does/law_en).

<sup>32</sup> European Commission, 'Infringement procedure' (22 December 2023) [https://commission.europa.eu/law/law-making-process/applying-eu-law/infringement-procedure\\_en](https://commission.europa.eu/law/law-making-process/applying-eu-law/infringement-procedure_en).

<sup>33</sup> European Commission, 'What the European Commission does in Law' (22 December 2023) [https://commission.europa.eu/about-european-commission/what-european-commission-does/law\\_en](https://commission.europa.eu/about-european-commission/what-european-commission-does/law_en)

<sup>34</sup> European Chemicals Agency, 'About us' (22 December 2023) <https://echa.europa.eu/about-us>.

<sup>35</sup> Environment Information and Observation Network, 'About us' (22 December 22, 2023) <https://www.eionet.europa.eu/>.

<sup>36</sup> European Environmental Agency, 'List of National Focal Points' (22 December 2023) <https://www.eea.europa.eu/about-us/countries-and-eionet/list-of-members-of-the-nfp-eionet-group>.

<sup>37</sup> European Environmental Agency, 'About Eionet' (22 December 2023) <https://www.eea.europa.eu/about-us/countries-and-eionet>.

application of EU legislation.<sup>38</sup> As per the implementation of the EU Environmental Law, Member States mostly fail to have full compliance of their national legislation with the EU one through the bad application of the last.<sup>39</sup>

### III. PROGRESSING ON HARMONIZATION

The relations between Kosovo and EU are so different compared to the relations of EU with other Western Balkan Countries. EU continues to have its unique position towards the status of Kosovo, it continues to have a high presence and expenditure in Kosovo and also Kosovo is denied to participate equally with other Western Balkan Countries in formal relations initiated from the EU mechanisms.<sup>40</sup> However, being a potential candidate country, Kosovo has started its path on approximating its national legislation with the EU one as one of the main requirements from the European Union, respectively one of the main criteria of Copenhagen accession criteria for admission in the EU. Although such harmonization is not formally enforced, the European Commission reports annually in the progress made from all potential candidate countries like Kosovo.

As per the environment related legislation, Kosovo lacked a comprehensive strategy to address environment during the UNMIK time and this mission has been criticized a lot on regard of its passive role to address post-conflict environmental consequences and adopting EU environmental standards on the other hand.<sup>41</sup> But, environment received a higher attention in Kosovo legal instruments immediately after its independence in 2008. Under the Constitution of the Republic of Kosovo, the protection of environment is considered as one of the values of the Kosovo constitutional order under Article 7 and on the other hand under Article 52, the responsibilities related to the environment have been stated, emphasizing here that the environment is a common responsibility between citizens and public institutions.<sup>42</sup> On the other hand, several laws addressing environmental issues have been adopted in the first four years after the independence of Kosovo, including the Law on Environmental Protection,<sup>43</sup> Law on Environmental Impact Assessment<sup>44</sup> and Law on Waste Management<sup>45</sup> among others.

On October 2015, Kosovo and EU signed the Stabilization and Association Agreement - SAA marking a major achievement both for Kosovo and European Union. Immediately on November 2015, SAA was ratified by the Assembly of Kosovo and since then a significant progress has been made on fulfilling the obligations foreseen in this agreement.<sup>46</sup> The final objective of such agreement is to assist Kosovo in the process of its path of fulfilling EU

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<sup>38</sup> Melanie Smith, Challenges in the Implementation of EU Law at National Level, European Parliament, Brussels, 2018, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608841/IPOL\\_BRI\(2018\)608841\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608841/IPOL_BRI(2018)608841_EN.pdf).

<sup>39</sup> Isabelle Laborde, "Sources of European Environmental Law" (2011) 25 *Natural Resources & Environment* 55.

<sup>40</sup> Augustin Palokaj, *Kosovo-EU Relations: The History of Unfulfilled Aspirations* (Kosovo Foundation for Open Society, Pristina, 2015).

<sup>41</sup> Iain King and Whit Mason, *Peace at Any Price: How the World Failed Kosovo* (Cornell University Press, 2011) 717-720. See also: Margaret Bourdeaux, Vanessa Kerry, Christian Hagenmiller, and Karlheinz Nickel, "A Cross-Case Comparative Analysis of International Security Forces' Impacts on Health Systems in Conflict-Affected and Fragile States" (2015) 9 *Conflict and Health* 9-14

<sup>42</sup> Constitution of the Republic of Kosovo. Art. 7 and 52

<sup>43</sup> Republic of Kosovo, National Assembly, The Law on Environmental Protection, adopted on 6 April 2009, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2631>.

<sup>44</sup> Republic of Kosovo, National Assembly, The Law on Environmental Impact Assessment, adopted on 29 October 2010. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>.

<sup>45</sup> Republic of Kosovo, National Assembly, Law on Waste Management, adopted on 1 April 2008. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2497&langid=2>

<sup>46</sup> Republic of Kosovo, National Assembly, Law on ratification of the stabilization and association agreement between: a) The Republic of Kosovo, b) the European Union and the European Atomic Energy Community, adopted on 2 November 2015. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11239&langid=2>

standards and it is playing a good role in the process of the approximation of the Kosovo's national legislation with the EU one, through the obligations that Kosovo took to implement EU Laws and regulation in various fields, including environment ones. This is seen in the Article 115 of the SAA dedicated to the environment which reads as below:

*“Article 115 - Environment: The Parties shall develop and strengthen their cooperation in the environmental field with the vital task of halting further degradation and start improving the environmental situation with the aim of Sustainable development in Kosovo. The Parties shall, in particular, establish cooperation with the aim of strengthening Kosovo's administrative structures and procedures to ensure strategic planning of environment issues and coordination between relevant actors and shall focus on gradual approximation of Kosovo's legislation to the EU acquis and where appropriate EURATOM acquis and adapted to EURATOM acquis.”<sup>47</sup>*

To address the obligations taken under the SAA, Kosovo has prepared two other national documents for planning and monitoring the fully implementation of the agreement. The National Program for the Implementation of SAA - NPISAA is the first document, which “sets a comprehensive mid-term framework of all reforms required to fulfil the obligations emerging from the SAA, namely the measures and priorities required for gradual approximation of national legislation with EU acquis, by transposing the latter into national legislation, and implementation of the approximated legislation”.<sup>48</sup> The European Reform Agenda - ERA is the other document, which is a more specific document focused on the implementation of foreseen Kosovo reforms through, presenting them in mid-term priorities and short-term measures.<sup>49</sup> The ERA is more a technical document offering deadlines and timeframes of implementation of relevant standards and it will not be further analysed in this article.

According to NPISAA 2022-2026, horizontal Legislation consists of Law on Environmental Impact Assessment, Law on Strategic Environmental Assessment and Law on Environmental Protection and these acts have transposed the following directives: Directive No. 2001/42/EC on Strategic Environmental Assessment, Directive 2014/52/EC, amending the Directive 2011/92/EU on assessment of certain effects of public and private projects on the environment and Directive No. 2003/35/EC on Public Inclusion.<sup>50</sup>

On regard to Air Quality, the NPISAA 2022-2026, recognizes the Law No. 03/L-160 on Air Protection from Pollution as the legislative framework in this area and considers that it has transposed the following EU relevant legal instruments: Air Quality Framework Directive No. 2008/50/EC, partially transposed; Directive No. 2004/70/EC on arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, fully transposed; Directive No. 70/220/EEC on measures to be taken against air pollution by emissions from motor vehicles, partially transposed; Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, fully transposed; Directive No. 2001/81/EC on national emission ceilings for certain atmospheric pollutants, partially transposed; Directive No. 96/61/EC on prevention and control of pollution

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<sup>47</sup> Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of one part, and Kosovo of the other part, art. 115. <https://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>

<sup>48</sup> Ministry of European Integration, “National Program for Implementation of the Stabilisation and Association Agreement”, January 8, 2023. <http://mei-ks.net/en/national-program-for-implementation-of-npisaa#sthash.qEcQ44i4.dpuf>.

<sup>49</sup> Government of the Republic of Kosovo, Kosovo-EU High Level Dialogue on Key Priorities – European Reform Agenda (ERA), Prishtine, November 2016. [http://www.mei-ks.net/repository/docs/era\\_final.pdf](http://www.mei-ks.net/repository/docs/era_final.pdf)

<sup>50</sup> Government of the Republic of Kosovo, National Programme for Implementation of the Stabilization and Association Agreement (NPISAA) 2022 – 2026, Prishtine, 2022. 217. [http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026\\_ang.pdf](http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026_ang.pdf).

from industrial plants, partially transposed; Regulation No. 1005/2009 on substances that deplete the ozone layer, partially transposed; and Regulation No. 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases partially transposed.<sup>51</sup>

On regard to Waste Management, the NPISAA 2022-2026, recognizes the Law No. 04/060 on Waste as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive No. 2008/98/EC on Waste, partially transposed (full alignment is expected to be achieved gradually by 2025); Directive No. 86/278/EEC on Sewage Sludge, partially transposed; Directive No. 2000/53/EC on end-of-life vehicles (ELV), partially transposed; Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment, fully transposed; Directive No. 2002/95/EC on Waste Electrical and Electronic Equipment (WEEE), fully transposed; Directive No. 1999/31/EC on the Landfill of Waste, fully transposed; Regulation No. 1013/2006/EC on shipments of waste, partially transposed.<sup>52</sup>

On regard to Water Quality, the NPISAA 2022-2026, recognizes the Law No. 04/L-147 on Waters of Kosovo as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Water Framework Directive No. 2000/60/EC, partially transposed; Directive No. 91/271/EEC concerning Urban Waste-Water Treatment, partially transposed; and Directive No. 98/83/EC on the quality of water intended for human consumption, partially transposed.<sup>53</sup>

On regard to Nature Protection, the NPISAA 2022-2026, recognizes the Law No. 03/L-233 on Nature Protection, Law No. 04/L-086 on National Park "Bjeshket e Nemuna", Law No. 04/L-087 on National Park "Sharri", Law No. 2003/3 on Kosovo Forests and Law on hunting as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive No. 2009/147/EC on the conservation of wild birds; Council Directive No. 92/43/EEC, of 21 May 1992, on the conservation of natural habitats, wild fauna and flora; Council Directive No. 1999/22/EC relating to the keeping of wild animals in zoos; Directive No. 83/129/EEC concerning the importation into Member States of skins of certain seal pups and products derived therefrom; Regulation No. 338/97 (EC) on the protection of species of wild fauna and flora by regulating trade therein, with amendments; Regulation No. 3254/91 (EEC) prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards; Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance; Regulation No. 2173/2005 (EC) on the establishment of a FLEGT licensing scheme for imports of timber into the European Community; Regulation No. 348/81 (EEC) on common rules for imports of whales or other cetacean products, and amendments.<sup>54</sup>

On regard to Industrial Pollution Control, the NPISAA 2022-2026, recognizes the Law No. 03/L-043 on Integrated Prevention Pollution Control as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive No. 2012/18/EU SEVESO III on the control of major-accident hazards involving dangerous

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<sup>51</sup> Ibid., 219.

<sup>52</sup> Ibid., 219.

<sup>53</sup> Government of the Republic of Kosovo, National Programme for Implementation of the Stabilization and Association Agreement (NPISAA) 2022 – 2026, Prishtine, 2022. 219-220. [http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026\\_ang.pdf](http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026_ang.pdf).

<sup>54</sup> Government of the Republic of Kosovo, National Programme for Implementation of the Stabilization and Association Agreement (NPISAA) 2022 – 2026, Prishtine, 2022. 220. [http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026\\_ang.pdf](http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026_ang.pdf).

substances, partially transposed; and Directive 2004/42/CE of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products, partially transposed.<sup>55</sup>

On regard to Chemicals, the NPISAA 2022-2026, recognizes the Law No. 04/L-197 on Chemicals and Law No. 03/L-119 on Biocide Products as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Council Directive No. 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos; Regulation No. 528/2012/EC, EU concerning the making available on the market and use of biocidal products; Regulation No. 1907/2006/EC on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH); Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures; Regulation (EC) No. 689/2008 on the export of chemicals, namely Regulation No. 649/2012/EU for export-import -PIC procedure; Regulation No. 648/2004/EC on Detergents.<sup>56</sup>

On regard to Industrial Noise Protection, the NPISAA 2022-2026, recognizes the Law on Noise Protection as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: partially transposed Directive No. 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise and other amendments to the Directive 2002/49/EC by Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019; Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June and Directive (EU) 2020/367 of 4 March 2020.<sup>57</sup>

On regard to Forestry, the NPISAA 2022-2026, recognizes the Law No. 2003/3 on Forests, Law No. 02/L-53 on Hunting, Law No. 2006/02- L41 on Fire Protection and Law No. 02/L-26 on Agricultural Land as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive (EU) No. 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Directive (EU) No. 79/409/EEC on the conservation of wild birds; Regulation (EU) No. 691/2011 on European environmental economic accounts; Regulation (EU) No. 995/2010 laying down the obligations of operators who place timber and timber products on the market, so called "EU TR".<sup>58</sup>

On regard to Climate Change, the NPISAA 2022-2026, recognizes the Law No. 03/L-160 on Air Protection from Pollution; AI for substances that deplete the ozone layer and fluorinated greenhouse gases; AI for access to the information for economic consumption of fuels and CO2 emission of new personal vehicles; AI for application of clean development flexible mechanisms; AI No. 01/2016 on Mechanisms for Monitoring and Reporting Greenhouse Gas Emissions and AI No. 09/2015 for Monitoring Greenhouse Gas Emissions; AI on mechanism for monitoring greenhouse gas emissions; as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO2 emissions in respect of the marketing of new passenger cars; Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC; Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms; Directive

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<sup>55</sup> Ibid., 220.

<sup>56</sup> Ibid., 221.

<sup>57</sup> Ibid., 221-222.

<sup>58</sup> Ibid., 222.

2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community; Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006; Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny; Commission Regulation (EU) No 291/2011 of 24 March 2011 on essential uses of controlled substances other than hydrochlorofluorocarbons for laboratory and analytical purposes in the Union under Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer; Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change; Commission Regulation (EU) No 744/2010 amending Regulation (EC) No 1005/2009 on substances that deplete the ozone layer, with regard to the critical uses of halons; Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases; Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer; Commission Regulation (EC) No 1493/2007 of 17 December 2007 establishing the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases; Commission Regulation (EC) No 1494/2007 of 17 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the form of labels and additional labelling requirements as regards products and equipment containing certain fluorinated greenhouse gases and Commission Regulation (EC) No 1516/2007 of 19 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, standard leakage checking requirements for stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases.<sup>59</sup>

On regard to Civil Protection, the NPISAA 2022-2026, recognizes the Law No. 04/L-27 for Protection against Natural and other Disasters, Law No. 04-L-230 on the Agency for Emergency Management, Law No. 04/L-012 on Fire Protection and Law No. 04/L-049 on Fire-Fighting and Rescue. as the legislative framework in this area and considers that it has transposed the following relevant EU legal instruments: Directive No. 2012/18/EU- SEVESO III, partially transposed.<sup>60</sup>

Generally on the national legislative framework, it calls for the following laws to be approved: Draft-law on Noise Protection, Draft-law on Biocidal Products, Draft-law on Establishment of National Spatial Information Infrastructure and Draft-Law on Kosovo Waters and the Law on Forests should be adopted by transposing the Timber Regulation 995/2010.<sup>61</sup>

Another important driver in the process of the approximation of Kosovo national legislation with the EU legal instruments, are the Pre Accession Assistance (IPA) legal instruments,

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<sup>59</sup> Government of the Republic of Kosovo, National Programme for Implementation of the Stabilization and Association Agreement (NPISAA) 2022 – 2026, Prishtine, 2022. 222-223. [http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026\\_ang.pdf](http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026_ang.pdf).

<sup>60</sup> Government of the Republic of Kosovo, National Programme for Implementation of the Stabilization and Association Agreement (NPISAA) 2022 – 2026, Prishtine, 2022. 224. [http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026\\_ang.pdf](http://mei-ks.net/repository/docs/3%20PKZMSA%202022-2026_ang.pdf).

<sup>61</sup> Ibid., 217.

respectively IPA I (2007 – 2013), IPA II (2014 – 2020) and IPA III (2021 – 2027).<sup>62</sup> These instruments have imposed Kosovo to adopt a wide environmental legal framework where environmental laws have been complemented or even repealed by new ones in some cases in order to be in fully compliance with the EU standards.<sup>63</sup>

As a conclusion of this part, it can be said that Kosovo has made a significant progress on harmonizing its environmental legislation with the relevant EU legal instruments and this has also been confirmed by the last Progress Reports where the focus has moved from the approximation issue to the implementation one.<sup>64</sup>

#### IV. STRUGGLING ON IMPLEMENTATION

A good legislation does not suggest that will bring results if there is no well implementation of the last. With the aim of implementing the above mentioned national environmental legislation adopted so far, Kosovo has established multidimensional mechanisms, including ministries, monitoring bodies, national strategies and relevant agencies.

The Ministry of European Integration and The Ministry of Environment, Spatial Planning and Infrastructure are at the top of the national mechanisms responsible to make possible the implementation of the national environmental laws in Kosovo. Both of them have established relevant policies and mechanisms in this regard.

The Ministry of Environment, Spatial Planning and Infrastructure on 2013 adopted The Kosovo Environmental Strategy (2013-2022) which was a key step towards the implementation of existing legal framework in environment.<sup>65</sup> Both The Kosovo Environmental Action Plan and the existing Law on Environment Protection were outcomes of this strategy and it has also highly taken into consideration the obligations deriving from EU laws and other international agreements.<sup>66</sup> Under the Law on Environment Protection was also established the Kosovo Environmental Protection Agency, which is the main body responsible to assess, monitor and report on regard to environment development issues.<sup>67</sup> On the other hand, The Ministry of Environment, Spatial Planning and Infrastructure on regular basis holds a dialogue with the European Commission regarding to the implementation of the Acquis Communautaire on the environment.<sup>68</sup>

A significant role in the implementation of environment legislation also play the annual Progress Reports adopted from the European Commission. The implementation of environmental legislation continuously has been criticized from such reports.<sup>69</sup> On the last report, it is stated that Kosovo remains “at an early stage of preparation” regarding to environment and climate change and also that it has made a “limited progress” on

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<sup>62</sup> European Commission, Overview – Instrument for Pre-accession Assistance, January 12, 2023. [https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/overview-instrument-pre-accession-assistance\\_en](https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/overview-instrument-pre-accession-assistance_en)

<sup>63</sup> Remzije Istrefi and Mihone Kerolli-Mustafa, "Building Environmental Capacities in Kosovo and its Challenge to Comply with EU Environmental Acquis" (2017) 7(3) The Holistic Approach to Environment 162

<sup>64</sup> See generally: European Commission, Kosovo 2020 Report, Brussel, 2020; European Commission, Kosovo 2020 Report, Brussel, 2021; European Commission, Kosovo 2020 Report, Brussel, 2022.

<sup>65</sup> Ministry of Environment and Spatial Planning, Kosovo Environment Strategy, Prishtine, 2013. [https://mmphi.rks-gov.net/assets/cms/uploads/files/Publikimet/Strategy\\_for\\_Environment\\_Protection\\_2013-2022\\_English\\_language\\_62392.pdf](https://mmphi.rks-gov.net/assets/cms/uploads/files/Publikimet/Strategy_for_Environment_Protection_2013-2022_English_language_62392.pdf).

<sup>66</sup> Remzije Istrefi and Mihone Kerolli-Mustafa, "Building Environmental Capacities in Kosovo and its Challenge to Comply with EU Environmental Acquis" (2017) 7(3) The Holistic Approach to Environment 162

<sup>67</sup> Kosovo Environmental Protection Agency, January 25, 2023. <https://ammk-rks.net/en/>.

<sup>68</sup> Remzije Istrefi and Mihone Kerolli-Mustafa, "Building Environmental Capacities in Kosovo and its Challenge to Comply with EU Environmental Acquis" (2017) 7(3) The Holistic Approach to Environment 163

<sup>69</sup> See generally: European Commission, Kosovo 2020 Report, Brussel, 2020; European Commission, Kosovo 2021 Report, Brussel, 2021; European Commission, Kosovo 2022 Report, Brussel, 2022.

environmental reporting and air quality monitoring.<sup>70</sup> It has invited Kosovo to increase its political commitment on addressing environmental degradation and climate change challenges and has emphasized that Kosovo needs to “substantially improve the implementation of its legislation”, in order to align with the goals of the Green Agenda for the Western Balkan.<sup>71</sup> Regarding to the environmental legislation it calls to “increase the waste collection coverage, apply widely reduction, separation recycling and reuse of waste, address effectively the issue of illegal dumpsites, and introduce circular economy measures to reduce waste, develop and approve inter-municipal integrated waste management plans, and establish the extended producers responsibility system; harmonise with and start implementing legal provisions on environmental liability, damage and crime; implement the polluter pays principle and raise public awareness on environmental protection; implement the climate change strategy and the action plan on climate change, prepare a roadmap for alignment with the Green Agenda for the Western Balkans and climate acquis and adopt a National Energy and Climate Plan, in line with the Energy Community requirements and finalise the drafting the long-term decarbonisation strategy”.<sup>72</sup> On the other hand the 2022 Report criticizes the delay of the adoption of the Strategy for Environmental Protection and Sustainable Development 2022-2030, the lack of Kosovo enforcement capacities and the lack of coordination with civil society.<sup>73</sup>

The European Union, like in the last Progress Report, has continuously stressed that the Kosovo’s legal framework broadly guarantees the protection of environment in line with European standards but significant efforts are needed regarding to the enforcement. The main causes of this lack of implementation are related to a “*weak governance structure, including weak institutions, lack of clear responsibilities between central and local level authorities, weak environment management systems and weak mechanisms for law enforcement*”.<sup>74</sup>

## V. FAILING ON PROSECUTING

Environmental related crimes were part of Kosovo criminal legal framework since 1977 when the Socialist Autonomous Province of Kosovo adopted its Criminal Law which was also used after the war 1998-1999 in Kosovo, until 2004 when UNMIK adopted the Provisional Criminal Code of Kosovo.<sup>75</sup> After the independence of Kosovo, this UNMIK Criminal Code continued to be used until in 2013 with only one change, the provisional part has been taken off and since then two other Criminal Codes were adopted, respectively the 2013 and 2019 one. Under this chapter, the 2019 Criminal Code will be analysed but it is worth mentioning that all other above mentioned criminal legal instruments have addressed environment through criminalizing acts that have to do with the destruction of environment, destruction of vegetation by harmful substances, pollution of food and water for animals and devastation of forests among others. The current Criminal Code of the Republic of Kosovo, which entered into force in January 2019, addresses the criminal offences against the environment under Chapter XXVII entitled “Criminal offenses against the environment, animals, plants and cultural objects”.<sup>76</sup> Under this

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<sup>70</sup> European Commission, Kosovo 2020 Report, Brussel, 2022, 113. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf>

<sup>71</sup> Ibid., 113.

<sup>72</sup> Ibid., 113.

<sup>73</sup> Ibid., 113.

<sup>74</sup> Remzije Istrefi and Mihone Kerolli-Mustafa, "Building Environmental Capacities in Kosovo and its Challenge to Comply with EU Environmental Acquis" (2017) 7(3) The Holistic Approach to Environment 163

<sup>75</sup> Vilard Bytyqi, "The Development of a Criminal Legal Framework for Environmental Protection: The Case of Kosovo" (2022) 32(2) Socijalna ekologija: časopis za ekološku misao i sociologijska istraživanja okoline 84-87.

<sup>76</sup> Republic of Kosovo, National Assembly, The Criminal Code the Republic of Kosovo, adopted on 14 January 2019. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413> .

chapter, the Code lists the following environmental criminal offenses: Polluting, degrading or destroying the environment (Art. 338), Unlawful handling hazardous substances and waste (Art. 339), Allowing unlawful construction or unlawful operation of plants and installations that pollute the environment (Art. 340), Damaging objects and installations for protection of the environment (Art. 341), Production, sale and circulation of harmful substances for the treatment of animals (Art. 342), providing irresponsible veterinarian assistance (Art. 343), Unlawful practice of veterinarian services (Art. 344), Failure to comply with orders for suppressing diseases in animals and vegetation (Art. 345), Abuse of Animals and the pollution of food and water for animals (Art. 346), Destruction of vegetation by harmful substances (Art. 347), Devastation of forests (Art. 348), Forest theft (Art. 349), Unlawful hunting (Art. 350), Sale or removal of wild animal trophies from the Republic of Kosovo (Art. 351), Sale or removal of protected goods of nature, plants or animals out of the Republic of Kosovo (Art. 352) and Unlawful fishing (Art. 353).<sup>77</sup>

The adoption of the 2019 Criminal Code was one of the mentioned successes of the 2019 Progress Report from the European Commission and on the other hand it has criticized Kosovo for lack of proper staff to prosecute environmental criminal offences.<sup>78</sup> But how much is this Code in approximation with the Directive 2008/99EC on environmental protection through criminal law as the main relevant EU legal instrument?<sup>79</sup> As it was mentioned above, Kosovo is not obliged to fully adapt its national legislation to EU Directives as it is not a Member State but based on the SAA and being a potential candidate it is working on approximation of its legislation with the EU one. This Directive is an important mechanism aiming to set minimum standards on protecting environment through criminal law providing that protection is effective, proportionate and convincing to the subjects who cause environmental damages and it also provides for an uniformity for all member states.<sup>80</sup> As identified in the scholarly literature, the 2019 Criminal Code is partly in accordance with the Directive on environmental protection through the criminal law, respectively the Criminal Code has not included all the offences the Directive foresees, it is not in fully compliance as well with the directive regarding to the illegality element as it doesn't include all the three aspects as are regulated by the Directive; regarding to sanctions, even though the directive does not point a minimum standard and the code is not in fully compliance with the directive as per the offences of the assistance and incitement but it is in fully compliance with the directive related to the liability of legal persons.<sup>81</sup>

On regard to the prosecution of environmental criminal offences in Kosovo, it can be said that the Kosovo Judiciary system is failing in this regard. Criminal offences devastating the environment continue to be a common practice in Kosovo, but just some minor criminal offences are prosecuted and convicted. Respectively, rivers and their habitat are being

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<sup>77</sup> Ibid., art. 338 – 353.

<sup>78</sup> European Commission, Kosovo 2019 Report, Brussel, 2019.

<sup>79</sup> Clarification: On June 2022, a request for the revision of the current directive has been proposed from the European Commission but there are no developments yet and this article has approached the current version. See more: [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2022\)733555](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)733555).

<sup>80</sup> Vilard Bytyqi and Fitore Morina, "Compliance of the Criminal Legal Framework for Environmental Protection in Kosovo with the Standards of the EU Environmental Crime Directive: Achievements and Challenges" (2022) 9(1) InterEULawEast: Journal for the International and European Law, Economics and Market Integrations 168

<sup>81</sup> See generally: Vilard Bytyqi and Fitore Morina, "Compliance of the Criminal Legal Framework for Environmental Protection in Kosovo with the Standards of the EU Environmental Crime Directive: Achievements and Challenges" (2022) 9(1) InterEULawEast: Journal for the International and European Law, Economics and Market Integrations 162-192; Vilard Bytyqi, "The Development of a Criminal Legal Framework for Environmental Protection: The Case of Kosovo" (2022) 32(2) Socijalna ekologija: časopis za ekološku misao i sociološkijska istraživanja okoline 83-96.

destroyed from hydropowers, sand companies and black waters,<sup>82</sup> forests are being destroyed from wood industry and private individuals too,<sup>83</sup> air continues to be polluted from the fraud of oil companies regarding to the oil they sell and power plants,<sup>84</sup> wild life is being destroyed from the non-legal hunting and national parks are being devastated from illegal hotelier private businesses and hydropowers<sup>85</sup> among other criminal offences that continue to happen without being prosecuted.<sup>86</sup>

## VI. CONCLUSION

From the above findings, it can be concluded that with all the work done so far, Kosovo has a long way ahead towards achieving the standards of the European Union on addressing environmental issues. From analysing the approximation of Kosovo environmental legislation with the EU one, it was clear that a significant progress has been done in this regard considering that each national legislation in different levels has transposed relevant EU legal instruments. However, it was presented that Kosovo is mostly lacking on regard of adopting legislation on climate change and nuclear energy. But on the other hand, the article clarifies that Kosovo is lacking significantly on implementation of the adopted legislation what makes the last being good laws but away from the citizens as they lack implementation. Except this, in the last chapter it was clarified that Kosovo is also lacking on prosecuting the criminal offences that have to do with environment issues and because of this the devastation of environment continues to be amnestied from the Kosovo judiciary. As a final conclusion, from the above mentioned findings it can be said that the implementation of the national environmental laws is not in the agenda of the Kosovo relevant public institutions and this is continuing to affect the Kosovo ecosystem, including here the life of its citizens, waters, air quality, nature and its habitat.

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<sup>82</sup> Mustafe Hoxha & Kreshnik Beqiri, "Ujerat, e zeza e Kosoves" (17 January 2023) <https://preportr.cohu.org/sq/hulumtime/Ujerat-e-zeza-e-Kosoves-370>. See also: Rina Koliqi & Besa Kalaja, "Shteti i pafuqishem perballe shkeljeve te hidrocentraleve" (17 January 2023) <https://preportr.cohu.org/sq/hulumtime/Shteti-i-pafuqishem-perballe-shkeljeve-te-hidrocentraleve-359>.

<sup>83</sup> Valdet Teneqja, "Degradimi i Pyjeve ne Kosove" (17 January 2023) <http://mjedisi.al/degradimi-i-pyjeve-ne-kosove/>; See also: Besnik Boletini & Leonida Molliqaj & Besa Kalaja, "Destruction of Forests in Kosovo" (17 January 2023) <https://preportr.cohu.org/en/investigations/207>

<sup>84</sup> Selatin Kacaniku, "Derivatet e naftes cenojne shendetin, jeten, mjedisin..." (17 January 2023) <http://www.ekonomia-ks.com/sq/opinion/derivatet-e-naftes-cenojne-shendetin-jeten-mjedisin>.

<sup>85</sup> Cristina Mari, "Shpresa Loshaj: Now is the time for me to speak up more" (17 January 2023) <https://kosovotwopointzero.com/en/shpresa-loshaj-now-is-the-time-for-me-to-speak-up-more/>

<sup>86</sup> Besnik Boletini & Rina Koliqi, "Amnestimi i degraduesve te mjedisit" (17 January 2023) <https://preportr.cohu.org/sq/hulumtime/Amnestimi-i-degraduesve-te-mjedisit-342>

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