

# Environmental Policies Applied in Turkey

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## ABSTRACT

*Environmental policies created to ensure sustainable development are based on four basic principles. These principles are; "precautionary principle", "polluter pays principle", "integration principle" and in the form of "preventive principle". It has been taken as a basis for many agreements and regulations on the environment, regardless of whether they are global or regional (Dağdeviren, 2019).*

*One of the most important factors in the correct and effective functioning of an environmental policy is the use of policy-appropriate tools. (Keleş et al., 2009:383). Tools used in environmental policy implementation; financial instruments are administrative and legal instruments. All kinds of laws and regulations for the solution of environmental problems are included in the scope of legal and administrative instruments (Ulucak, 2013).*

*"Taxes" form the basis of financial instruments of environmental policies. Financial instruments can be listed as environmental taxes, emission fees, user fees, emissions trading, product taxes, refundable deposit system, subsidies, funds and taxes (Şahinöz, 2016: 67).*

*Environmental policies are "fundamental policies" and "problem-solving policies" in terms of content. We can consider them as the "environmental policies" aimed at, while policies for problem-solving suggest a reduction of environmental pollution and efficient use of resources, the radical approach; some argue that radical change policies that will prevent environmental destruction should be implemented and that this can be achieved by changing the existing production relations.*

*In terms of method, environmental policies can be divided into two. Restorative policies aim to eliminate and reduce adverse environmental impacts when they occur. It accepts the occurring environmental pollution as a result of production and only ensures to keep the damage at a certain level or to control it. Preventive policies, on the other hand, enable solving the negative effects that may occur before harming the environment from the source. (Keles et al., 2009).*

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## ENVIRONMENTAL POLICIES APPLICATION AREAS

### **Alternative Energy Resources and Waste Management**

In the Sustainable Development Goals, the relationship between energy and sustainability, which is defined as "To Guarantee Access to Accessible, Reliable, Sustainable and Modern Energy for All" under the title of "Goal 7", has been supported (<http://www.tr.undp.org/content/turkey/tr/home/sustainable-development-goals/goal-7-affordable-and-clean-energy.html>).

The orientation of energy resources to clean and renewable energy and the provision of energy diversity is one of the most important points under the heading of "Target 7". In addition to the diversity of energy sources, the issue of energy efficiency is also emphasised, and it is aimed at doubling it. It is aimed to focus on research and development studies for energy efficiency and diversity, cleaner fossil-fuel technology and to develop technologies that will increase clean energy production.

Waste management has an effective place in terms of sustainable development and environmental policies. While protecting nature and resources with waste management and recycling, significant savings are also achieved in raw material and production costs. A properly planned waste management, when implemented with effective methods, can be very effective in realizing both the economic and environmental dimensions of sustainable development. In the 1970s, methods such as incineration were used to dispose off waste. In the 1980s, it was understood that such methods cause the emergence of harmful substances, and different techniques were studied in order to reduce the output of harmful substances in the disposal of wastes. In the 1990s, various methods, such as waste reduction, recycling and energy recovery were used in the field of waste management. When it comes to the 2000s, preventing waste generation has become a priority step rather than eliminating wastes (Dağdeviren, 2019).

### **Global Warming and Preventing Climate Change**

One of the most important causes of climate change, which poses a threat to all living things in the ecosystem, is the waste of energy resources. According to the Intergovernmental Panel on Climate Change (IPCC), the increase in carbon dioxide is primarily due to the use of fossil fuels. Another important factor is the change in land use, especially deforestation. The Intergovernmental Panel on Climate Change has revealed that there is an increase in global average temperatures as a result of the impact of human activities on the atmosphere. The IPCC revealed that the main cause of global climate change is the increase in greenhouse gas emissions as a result of human activities. The burning of fossil fuels, especially coal, is responsible for the increase in carbon dioxide in the atmosphere. According to the IPCC, 53.5% of anthropogenic greenhouse gas emissions in 2017 belong to carbon dioxide from fossil fuel use (IPCC, 2018).

Reducing greenhouse gases resulting from human activities is of great importance in ensuring environmental sustainability. In the process that started with the Kyoto Protocol and continued with the Paris Agreement, countries were to set limits for greenhouse gas emissions, and economic instruments such as "carbon tax" and "emissions trade" were proposed.

Carbon trade, one of the flexibility mechanisms introduced by the Kyoto Protocol, can also be shown as an indicator of environmental inequality. According to the protocol, countries that have set emission targets may engage in "emissions trade" with non-industrialized, developing and countries that are below the targeted emission value, in order not to exceed the CO<sub>2</sub> value they have committed. Carbon trading can be done between countries as well as between businesses.

Carbon tax and carbon trading may be preferred after the analysis of gains and losses. While carbon tax aims to prevent the use of fossil fuels by increasing the cost, carbon trading tries to ensure control by setting an upper limit from the beginning. While the carbon tax is an option where it is difficult to adjust the emission amount over a certain price, carbon trading sets an upper limit and leaves the price to the market to determine. If carbon

tax and carbon trade are used as a complement rather than interchangeably, an effective application will emerge to reduce emissions (Karakaya, Özçağ, 2004).

### **Conservation of Biodiversity**

Biodiversity; human health; air, water and soil quality; environmental sustainability is also included in protecting animal and plant life. Biodiversity; ecological diversity, species diversity and gene diversity are examined under three headings (Benn, 2010). Conservation of biodiversity has been determined as one of the global goals under the Sustainable Development Goals, with "Goal 15 (sustainable use of forests, combating desertification and preventing biodiversity loss)".

The most widely used tool for protecting biodiversity is Environmental Impact Assessment (EIA) and Strategic Environmental Impact Assessment (SEIA) studies developed in recent years. The EIA application ensures that all the effects that the planned project may cause on the environment are investigated and the project is implemented or cancelled with the necessary regulations and/or inspections. SEA, on the other hand, is applied at the macro level as an advanced stage of EIA (Sivri et al., 2008).

In order to prevent the loss of biodiversity, international conventions were signed, endangered species were identified and protected, natural life protection areas were created, but most of them fell short in the face of increasing pressure. The 2018 Living Planet Report published by WWF drew three ways to prevent biodiversity loss after 2020. The first is to clearly define the target for the conservation of biodiversity, the second is to develop a set of measurable indicators to evaluate the progress made in this regard, and the third is to agree on a series of actions that will enable to reach the target together within a certain time (WWF, 2018).

## **ENVIRONMENTAL PROTECTION POLICIES IN TURKEY**

While creating an environmental policy, different objectives can be targeted according to the countries. However; The common goal is "sustainable development". sustainable development; While progress is made in economic and social areas, it also advocates the effective use of limited natural resources.

Turkey has been a party to many conventions for the solution of environmental problems and made commitments. Economic instruments have also been used for the solution of environmental problems at the national level. However, it is not possible to say that serious progress has been made in solving environmental problems due to political concerns and neoliberal policies (Dağdeviren, 2019).

Major Environmental Problems in Turkey; Social Problems can be listed as Nutrition and Food Safety, Housing, Energy, Transportation, Solid Wastes, Noise Pollution, Air Pollution, Water Resources Pollution, Erosion and Soil Pollution, Marine Pollution, Forests and Biodiversity, Accidents and Disasters, Pests.

The first legal regulation regarding the environment in Turkey is Article 661 of the Civil Code, which entered into force in 1926. In essence, this article regulating the right of neighbour; it obliges to "avoid any behavior that will harm neighbours and surroundings in using property right". Later, many direct or indirect regulations related to the environment were included in many laws and regulations, especially the Village Law, Forest Law, Fisheries Law, Zoning Law, Municipal Law, Public Health Law. One of the first official texts talking about environmental problems is "III. Five-Year Plan (1974-1978).

After the 1980s, the number of legal regulations related to the environment has increased rapidly. On the other hand, as a result of the rapid growth in energy, industry, transportation and tourism sectors and the acceleration of migration from rural areas to cities, environmental problems have both aggravated and become widespread.

The 1982 Constitution gave citizens the right to live in a healthy and balanced environment and defined the development of the environment, the protection of environmental health, and the prevention of pollution as the duty of the state and citizens. With the "Environmental Law" enacted in 1983, the general framework of environmental management and environmental legislation was determined. Many of these regulations are based on regulations and standards in Germany.

In Article 56 of the 1982 Constitution, under the title of "Social and Economic Rights and Duties"; By saying "everyone has the right to live in a healthy and balanced environment", a constitutional regulation with an environmental axis/approach was introduced for the first time and a new dimension was brought to environmental protection "on the level of environmental right". Moreover, in the 1982 Constitution; 41 (Protection of the family), 43 (Use of the coasts), 44 (Land ownership), 45 (Protection of agriculture, animal husbandry and workers in these production branches), 56 (Protection of health services and the environment), 57 (Right to housing), 63 (Preservation of historical, cultural and natural assets), 166 (Planning), 168 (Exploration and exploitation of natural wealth and resources), and 169 (Forests and forest villager). substances are directly related to environmental protection.

According to the Constitution of the Republic of Turkey; Although the duty of "improving the environment, protecting environmental health and preventing environmental pollution" is a duty given to both the state and citizens; From the practices so far, it cannot be said that both the authorized units and a significant part of the society have a sufficient environmental awareness or sensitivity. The fact that the institutions responsible for environmental protection are not adequately equipped in terms of both qualified manpower and equipment is the clearest indicator of this. In addition, the task of protecting the environment is one task that can be postponed for the improvement of current economic conditions or compromised for economic stability. Starting from here; With the Constitution of the Republic of Turkey, the duty given to the state and citizens on environmental protection; It can be said that it is a very limited and human-centered assignment. Therefore, it does not fully correspond to and is not compatible with the basic regulations on environmental protection in the primary laws of the European Union. In other words, there is a need for some changes or rearrangements in the Constitution of the Republic of Turkey in order to achieve full harmonization with the EU. In this reorganization, the environmental right should be removed from the title of "social and economic rights and duties" and regulated as a separate section, the regulations on environmental protection should be brought together in one section and the environmental protection approach should be purged from the mentioned limitations (Akdur, 2005).

### **Environmental Law**

Environmental protection policy in Turkey mainly consists of the "Environmental Law" numbered 2872, which was put into effect in 1983, and the statutes, regulations and communiqués prepared according to this law. For this reason, Law No. 2872 is accepted both as the beginning of rooted and direct legal studies on the environment and as the basic framework of environmental protection policy in Turkey.

The third article of the "Environmental Law" numbered 2872 regulates the basic principles of the environmental protection policy to be implemented/being implemented in Turkey. According to this article; The general principles regarding environmental protection and prevention of environmental pollution are as follows:

- a) Protection of the environment and prevention of environmental pollution is the duty of natural and legal persons and citizens, and they are obliged to comply with the measures to be taken and the principles determined in this regard.
- b) In taking and implementing decisions and measures regarding environmental protection and pollution; It is essential to make short and long-term evaluations by taking into account the protection of the health of humans and other living beings, the positive and negative effects of the measures to be taken on development efforts, and their benefits and costs.

- c) Authorized institutions, which make land and resource use decisions and make project evaluations, take into account the goal of protecting the environment and not polluting it, taking into account not to adversely affect development efforts.
- d) The most suitable technology and methods are selected and applied in order to prevent and limit environmental problems in economic activities and determination of production methods.
- e) It is essential that the expenses made for the prevention and limitation of pollution and the struggle are covered by the polluter. Necessary expenditures made by public institutions and organizations due to the fact that the polluter does not take the necessary measures to stop, eliminate and reduce the pollution, or that these measures are taken directly by the competent authorities, are collected from the polluter in accordance with the provisions of the Law No. 6183 on the Collection of Public Claims.

However, polluters can be relieved of the obligation to pay the expenses incurred for the prevention and limitation of pollution, provided that they prove that they have taken all necessary measures to prevent the pollution in question.

- f) Based on the lowest level of pollution that can be descended, the fees determined in subparagraph (i) of Article 18 of this Law are additionally charged for pollution that may occur above this level.
- g) It is essential that the measures to be taken for the protection of the environment and the prevention of pollution are determined and implemented in integrity.

These principles are largely similar to the general principles of the European Union Environmental Policy. On the other hand, it is an important deficiency that the principles of "care for the environment, prudence" and "prevention and prevention at source" are not explicitly included among the listed basic principles.

The principle of "polluter pays" in article 3 of the "Environmental Law" is also one of the basic principles of the European Union Environmental Policy.

This principle is stated in Article 28 of the Law titled "Responsibility of the Polluter"; "Those who pollute the environment and those who harm the environment are responsible for the damage caused by the pollution and deterioration they cause, without any fault condition. The responsibility of the polluter for compensation for the damages caused is also reserved according to the general provisions". It was supported by expressing it as "the polluter should be held responsible even if it is not at fault. Thus, the only way for the polluter to get rid of the payment obligation is to prove that the polluter has taken all necessary measures to prevent the pollution in question.

In Article 8 of the Environmental Law, the measures taken regarding "environmental pollution" are specified under the name of "prohibition of pollution". Pursuant to this article" it is forbidden to directly or indirectly deliver, store, transport, remove and carry out all kinds of waste and residues to the receiving environment, in violation of the standards and methods determined in the relevant regulations, in a way that will harm the environment. In such cases, the polluter is obliged to take the necessary measures to stop the pollution, to eliminate and reduce the effects of pollution.

In order to prevent the violation of the standards and methods determined in the legislation through activities that are deemed objectionable to be carried out, the obligations of those who "pollute" and those who "possible to pollute" are listed in this article; they were asked to take the necessary measures to stop the pollution or to eliminate its effects. Thus, the principle of "polluter pays" is also mentioned in this article.

Within the framework of subparagraphs (b), (c) and (d) of Article 3 of the Environmental Law, the economic development and environmental protection objectives of the Turkish Environmental Policy are evaluated together and in a balanced manner. As it is known, in the basic principles of the EU Environmental Policy, the protection of the environment is shown as the first and priority target.

On the other hand, pursuant to the regulation brought in subparagraph (g) of Article 3 of the Environmental Law; "It is essential to determine and implement the measures to be taken in order to protect the environment and prevent pollution".

Within the framework of this regulation, it has been determined that it is essential to determine and implement the measures to be taken in order to protect the environment and prevent pollution.

Moreover, in the Seventh Five-Year Development Plan and the National Environment Action Plan, the principle of addressing environmental policies with an integrated approach with all other policies has been adopted. In this way, the regulation in our national legislation is compatible with the "integrated environmental protection approach" developed by the EU.

The environmental impact assessment system introduced by Article 10 of the Environmental Law and the provisions regarding the right of people who are aware of environmental pollution brought by Article 30 to file a complaint with the competent authorities are also in harmony with the basic principles of the EU Environmental Policy.

The "sustainable development principle" is included in the Sixth and Seventh Five-Year Development Plans and the National Environment Action Plan. In this context, it is seen that the Environmental Law and related regulations also contain regulations in line with this principle. However, the principles envisaged in this framework are not sufficient on their own, and it cannot be said that they are effectively implemented considering the situation in practice.

What needs to be done in this area is to review the environmental legislation in Turkey in line with both sustainable development and other principles of the European Union Environmental Policy, and an activity in this direction has been initiated with the Environmental Law Amendment Draft.

When both the general principles listed in the third article and its other parts are examined, it is stated that the Environmental Law No. 2872; it is understood that it does not explicitly refer to the principles of care, prevention and prevention at the source, and that it is a law based on the "restorative environmental protection model".

In other words, many articles of the law are mainly regulated to intervene after pollution occurs. However, the essence of environmental policy/legislation in the EU is based on the preventive model and is based on the principles of "care, prevention, prevention at source, polluter pays". In this respect, the law numbered 2872 should be harmonized with the EU laws (Akdur, 2005).

#### **Other Regulations Regarding Environmental Protection**

There are many legal regulations for environmental protection in Turkey. The main ones can be listed as follows;

1593 Public Health Law

1580 Municipalities Law

6831 Forest Law

775 Slum Law

1380 Fisheries Law

167 Law on Groundwater

2863 Law on Conservation of Cultural and Natural Assets

2873 National Park Law

2960 Bosphorus Law

3194 Zoning Law

3621 Coastal Law

3030 Law on Management of Metropolitan Municipalities  
2634 Tourism Incentive Law  
Decree on the Establishment and Duties of the Ministry of Environment  
Decree on the Establishment of the Special Environmental Protection Agency  
Air Quality Protection Regulation  
Noise Control Regulation  
Water Pollution Control Regulation  
Solid Waste Control Regulation  
Regulation on Control of Medical Wastes  
Regulation on Control of Dangerous Substances  
Regulation on Control of Harmful Chemical Substances and Products  
Environmental Impact Assessment Regulation  
Environmental Pollution Prevention Fund Regulation  
Special Environmental Protection Fund Regulation

### Audit of Environmental Protection Services in Turkey

#### Legal Liability

Pursuant to Article 28 of the Environmental Law with the title "Responsibility of the Polluter"; "Those who pollute the environment and those who harm the environment are responsible for the damages arising from the pollution and deterioration they cause, without any fault condition. The liability of the polluter for damages is also reserved, according to the general provisions, for the damages caused".

Thus, it has been stated that the person who pollutes or degrades the environment with this article will be responsible for the damages caused without fault.

The conditions of legal liability are determined as the pollution or deterioration of the environment, the damage to the person concerned, the existence of an appropriate causal link between the effects that cause environmental pollution and the damage.

The consequences of the responsibility, the elements of which are determined in this way, are the claim for compensation pursuant to Article 28/2 of the Environmental Law, or the restitution and recovery of the danger based on Article 656 of the Civil Code or within the framework of the "right of neighbourliness" in Article 661 of the Civil Code. arises as a request for rectification.

According to Article 656 of the Civil Code, titled "Owner's Liability"; In the event that the immovable property exceeds the owner's right and causes harm to someone else, the injured person has the right to demand the restitution of the former state, removal of the danger, taking the necessary measures and compensation for the damage;

In accordance with the "right of neighbours" regulated in article 661, a person is obliged to refrain from all kinds of exuberance that may harm his neighbours while using his property and especially while engaging in industrial activities, and in this context, noise, vibration, smoke, soot and other disturbing dust, mist and noise exceeding the level that can be tolerated. It has been decreed that odour extraction is prohibited. Furthermore, according to Article 58 of the Code of Obligations, "The owner of a building or any product produced will be held liable for the bad construction of that product or its defect in its preservation"; Again, according to Article 59 of the same Law, in the event that another person is damaged by a building or manufactured product, the injured person will have the right to demand from the owner to take the necessary measures to eliminate the danger.

Therefore, these provisions offer individuals the opportunity to apply and litigate in the field of private law (Akdur, 2005).

## CONCLUSION AND RECOMMENDATIONS

As in the rest of the world, the beginning of interest in environmental problems in Turkey dates back to the 1970s. One of the first official texts mentioning environmental problems in Turkey is III. It is the Five-Year Plan (1974-1978). After the 1980s, the number of legal regulations related to the environment has increased rapidly. In other words, it has been observed that there have been important developments in the last 20 years in reducing and controlling environmental problems in Turkey. On the other hand, as a result of the rapid growth in energy, industry, transportation and tourism sectors and the acceleration of migration from rural areas to cities, environmental problems have both aggravated and become widespread.

On the implementation of environmental protection laws in Turkey;

1. Criticisms that "existing provisions are not strictly followed in practice, some of these provisions are not even applicable, and therefore institutions and organizations assigned by law are in distress" are very common.
2. It is argued that "if the existing regulations are tried to be fully implemented, the number of facilities that can get permission will be extremely low".
3. Many investors "often leave the permits for later, arguing that the bureaucratic procedures take too much time"; For this reason, it is said by the authorized units that "EIA reports are requested from the facilities that have been established and have started production".

All these discourses are a clear indication that environmental awareness has not yet been formed on the parties of the issue (industrial-controller and practitioner) (Akdur, 2005).

When development plans, legal regulations and action plans are examined, sustainable development policies, which we can say started after 1990 in Turkey, were insufficient. Development plans have not been implemented. Therefore, these plans are considered as works that cannot go beyond the promises on paper. Legislators, practitioners, public and private sector institutions have not been able to make a radical and effective change to solve environmental problems.

Environmental taxes, fees and incentives applied in Turkey are important steps taken to prevent environmental pollution. However, the tax policy that Turkey needs cannot be implemented. In order to prevent environmental damage, it is inevitable to establish a tax system independent of profit expectation and to implement green tax reform.

Environmental problems have often remained in the background in the development plans organized by Turkey. Environmental regulations were included in the development plans, but many of the targeted applications could not be realized like the others. As can be seen from the progress reports in the EU harmonization process, even though relatively progress has been made in the energy chapter, sufficient levels have not been reached. It is clearly seen that Turkey needs reform in the field of environment and energy (Dağdeviren, 2019).

Solution of environmental problem; depends on raising awareness of all relevant parties / society. For this, it is necessary to attach importance to education in this field and to conduct inspections in a guiding way rather than punitive. In the protection of the environment, the government, workers and employers should cooperate and everyone should fulfill their duties and responsibilities. While trying to provide "sustainable development" by eliminating the negative effects of investor organizations on the environment, care should be taken to ensure that the burden of protecting the environment on these organizations is portable (Akdur, 2015)

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