THE POLLUTER PAYS PRINCIPLE IN THE EUROPEAN UNION LAW AND IN VIETNAM-SELECTED ISSUES

Tran Cong Thiet, University of Warsaw

ABSTRACT

In the overall sustainable development of a country, environmental policy and economic policy are closely related. In some countries, the principle that polluters pay is used as an official tool to control the environmental activities obligations of entities. The principle of the "polluter pays" has become popular in many countries around the world. In recent years, environmental issues have increasingly become a top concern for the sustainable development of most countries. n the current context, the scientific and systematic study of the theoretical issues of the polluter pays principle, the legal provisions express and implement the principle following the provisions of the European law, from which a solution to improve environmental laws and the effective implementation mechanism of this principle in Vietnam is needed. Therefore, the study of European legal regulations on the polluter pays principle plays an important role in considering and drawing lessons as well as orientations for application in Vietnam in environmental management to limit the negative impact of the subjects in the current environment.

Keywords: European Union Law, Environmental Damage, EU Environmental Policy, Vietnam Environmental, Environmental Costs, Environmental Impact.

INTRODUCTION

In Vietnam and other countries in the world, the polluter pays principle (PPP) is one of the key principles of environmental law in particular, but also of international environmental law in general. What is the implication of this principle?

It can be understood simply as the use of economic measures to influence the behavior of entities in an environmentally beneficial way. In other words, when an entity pollutes the environment, it will incur remedial financial obligations as a consequence of its actions. The environment is considered a special "*commodity*" that is circulated in the market. It is a special commodity because it is communal (not owned by any individual) and has to be used by both commercial and non-commercial users. Therefore, assigning financial obligations with regard to the environment will help to effectively manage the use and exploitation of the environment.

The basic content of the PPP is evident in its name; that is, the people that cause environmental pollution must bear the cost of remedying and improving the polluted environment. Those who exploit natural resources, those who are responsible for acts of discharging into the environment, as well as those whose acts have an adverse effect on the environment must pay. The "*people*" here can be understood as a specific person, individual, or enterprise that is able to pollute the environment. Companies take full responsibility for all the

damage caused to the environment from their production and business activities and have to contribute to the restoration of polluted locations, while the state must ensure that the companies are held responsible for the damage caused to people, to biodiversity, and to the environment, including the atmosphere and oceans. This liability regime includes financial payment obligations for detoxification and rehabilitation activities. At the time of its inception, the PPP was a way to transfer the responsibility of treating waste from governments to the entities that caused the pollution. Regardless of the business, if toxic substances causing environmental pollution are emitted in the course of production and business activities, the entities responsible have to pay for the remedy.

The polluter pays principle (PPP) has been a cornerstone of international environmental law for almost fifty years, first being mentioned in the recommendation of the OECD of 26th May 1972 and reaffirmed in its recommendation of 14th November 1974. Since that time, it has been formalized on numerous occasions through being adopted by several international conventions, including:

1. The 1980 Athens Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources and Activities.
2. The 1992 Helsinki Convention on the Transboundary Effects of Industrial Accidents.
3. The 1992 Helsinki Convention on the Protection and Use of Transboundary Watercourses and International Lakes.
4. The 1993 Lugano Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment.
5. The 1996 London Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

Significantly, the PPP was widely discussed in the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. The principle was endorsed by all the attending representatives of the participating countries. Principle 16 of the Rio Declaration provides that "*National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment".* This principle can be seen as a direction to all states on how to apply the PPP and other economic instruments when adopting environmental liability schemes. Many economists claim that much environmental harm is caused by producers who "*externalize*" the costs of their activities (Campbell-Mohn & Cheever, 2020).

For instance: today's vehicles emit many emissions, polluting the air, especially in big cities, where there is always a lot of smog due to the exhaust of vehicles such as pollution such as car, motorbike, bus, etc. But the cost of this waste treatment comes from the state budget. Therefore, it can be easily seen that the people indirectly incur environmental rehabilitation costs in this case. Consequently, the law should require companies to manufacture vehicles with the higher use of more environmentally-friendly technologies. For example, many countries have introduced cars and buses powered by electric motors to replace gasoline engines. This will contribute to environmental protection. So these electric vehicle manufacturers enjoy a lot of support from the government. Conversely, if applying PPP, companies that do not apply advanced and environmentally friendly technologies are subject to high taxes. The PPP also

guides the policies of the EU and other governments throughout the world (Campbell-Mohn & Cheever, 2019).

Through the above examples, it is clear that the earth's environment is the typical home of all living organisms (including humans), which rely upon it to coexist and develop. Therefore, any human behaviour that causes (or has the potential to cause) environmental degradation, and by extension, threatens the world's finely balanced ecosystem, must be called out and those responsible held to account. This should include the need to acknowledge guilt, taking responsibility for remedial and restoration measures and where appropriate, the payment of compensation or restitution. The clearly defined obligations and responsibilities of relevant parties need to be set out in legislation that is purposeful and unambiguous and enforced by a legal system that is fearless and relentless.

At this point it is also worth briefly mentioning the effect of the Pigouvian taxation system that was established to correct any market activity that generated negative externalities (costs not included in the market price). Whilst this system was introduced as a broadly-based concept, it has been shown to have a quite specific application in the case of environmental pollution.

The Regulations of the EU for the PPP

Even during the early stages of the evolution of the EU, the participating authorities were already beginning to enact numerous initiatives for the protection of the environment. These included the OECD's recommendations in its first Environmental Action Program (1973-1976) whilst the European Community has also been committed to the PPP since 1987. Subsequently, these principles spread to numerous national legislations worldwide (Arthur, 2019). Their influence has grown over the past few decades, as the European Union has become recognised as one of the world's most progressive regions in terms of environmental protection policies, and where PPP law enforcement is effective and most rigorous. As a result, the European law on the PPP is considered the optimal model for other countries to emulate when seeking to contribute to globalization's most influential environmental protection initiatives.

As a main function of the principle, the OECD recommendations specify the allocation of costs of pollution prevention and control measures to encourage rational use of scarce environmental resources and to avoid distortions in international trade and investment. The polluter should bear the expense of carrying out the measures decided by public authorities to ensure that the environment is in an acceptable state.

While agreed implicitly, the polluter must bear the cost of implementing the actions 'decided by public bodies to ensure the atmosphere is in an appropriate condition. It has proved exceedingly difficult to ascertain definitively that 'the environment is in an acceptable state on several counts.

From the writer's point of view, the OECD ought to have the detail of the regulation in this case because calculating the environmental damage is never ever easy in reality. When environmental damage or degradation occurs, we need to apply science and technology for defining damage. Therefore, the costs are expensive and may be higher than the ability of victims to pay. Hence, if the law has accepted the PPP, it will be the foundation for settling lawsuits involving environmental damage.

As a result, the PPP has received wide acceptance and has been adopted by many international treaties. From an economic perspective, the polluter pays principle has gradually been recognized worldwide as a basic legal principle in the legal system involving the environment. The Organization for Economic Co-operation and Development (OECD) proposed to apply the principle of polluters pay from the early 1970s. The OECD's continued efforts over a period of two decades have made the PPP principle a legal principle. The polluter pays principle was officially introduced in Europe under the One Europe Act of 1987; and internationally this principle has been recognized in Principle 16 of the 1992 United Nations Joint Declaration on Environment and Development.

The 1992 Kyoto Protocol to Respond to Climate Change is also an example of the international rules that apply the polluters pay principle. For nearly 30 years since the 1992 Rio Joint Declaration, the polluter pays principle has been applied in the environmental legal jurisdictions of many countries around the world. Indeed, it has also been expanded to monitor the substance impacts during the life cycle from the simple control of emissions at the source (i.e., extended producer responsibility). PPP is referred to as a precept of EU environmental law under Article 191 (2) of the EU Treaty. Its preventive role is founded on the premise that polluter emissions can be reduced as it becomes clear that its costs have to exceed the benefits of continued pollution. Because the future polluter has to pay for precautionary steps, he has a risk reduction opportunity and is investing inadequate risk control measures.

Finally, the PPP has a curative mechanism that ensures that the polluter is responsible for clean-up costs for the harm already occurring. In fact, many factories in some countries are willing to pay the costs of responsibility for environmental damage rather than invest the systems to handle the waste because usually the penalties for environmental damage are generally lower. That's why there is an urgent need to have stricter laws and enforcement to deter and punish this kind of behavior such as the introduction of criminal indictments and imposition of significantly increased financial penalties and sanctions.

For some time now, the PPP has been well understood and quoted by most researchers around the world. However, in some respects the PPP is still not totally clear within the EU. For example, the language of the PPP Treaty itself does not provide hard-law answers to many questions, including: who are polluters and what should they pay? This led a scholar in 1992 to summarize the PPP as follows (Margaret, 2020):

> *"Community intervention in environmental matters has a vital role in environmental degradation because of the cost of removing the ecological damage. Environmental harm has arisen in some countries that current regulatory laws within PPP have not complied with the general population shall only pay such damages in extraordinary cases by the polluting emitter or the responsibility of such expenses."*

However, in some the exceptions which maybe build up individually for the various part of the nations (Robert & Reva, 2004). For instance: when environmental damage happens in place A caused by wastewater from a factory. The government or authorities have to consider the financial position of the factory involved. Suppose the factory cannot pay the fee for remedying or improving the environment in place A because it will go bankrupt soon. In this case, they can apply the fund from the Community of place A.

Hence, the European Community has enabled the Member States to enforce the PPP within their jurisdictions to comply with EU requirements. Another critical point to remember is

that EU requirements aim to internalize the cost of environmental harm after or even previously to it happening (Bienemann, 1996).

As a means of further formalizing a regime for environmental liability, the EC (European Commission) adopted a proposal in 2003 based on PPP for a directive designed to address issues of prevention and restitution in relation to environmental damage.

Mostly, the PPP actually plays an extremely critical role in ensuring that polluters do pay for damage caused and clearly defines the criteria by which responsibility can be accorded. This can make it easier for the appropriate authorities of government to identify the polluter if there is a direct and transparent link between the damage caused and the polluter's activities as having been responsible for the damage. Of course a lot depends on the relevant officers' diligence in pursuing such an incident, some of which can be very complicated. Hence, a Directive made clear that in the case of an inability to establish a causal link between the damage and each operator's operation, its provisions would not apply to environmental damage due to pollution of a spreading nature. This is understandable (Lammers, 2001); responsibility for environmental harm can only be established if the person or entity responsible for the damage can be specifically and clearly identified. It means that the perpetrators have to be found then forced to face their obligations in respect of the environmental damage caused. In finding an answer to the question of who is the polluter, the common trend in the vast majority of environmental instruments is to hold the operator responsible for environmental damage. The directive defines "*operator*" as "all people - normal or lawful - who are responsible for carrying out the activities protected, including the authorizer and/or the individual registering or notifying such an action. The directive defined "*operator*" as "*any person*" The provisions on environmental responsibility in relation to the avoidance and remediation of environmental harm are laid down in Directive 2004/35 of the European Parliament and of the Council of 21 April 2004 on.

Directive 2004/35/EC on the prevention and remediation of environmental pollution (ELD) of the European Parliament and of the Council of 21 April 2004 provides a structure focused on PPP to deter and repair environmental damage. In Article 191(2) TFEU, the PPP is laid down in the Treaty on the Operation of the European Union. As "*pure ecological harm*" is addressed by the ELD, it is founded on the authorities' powers and responsibilities (administration approach) apart from the scheme of civil responsibility for *"traditional damage"* (damage to property, economic loss, personal injury). From a general point of view, we can understand that PPP's signals according to EC regulations have some shape in another way. As a basis, PPP is considered a guiding principle of the EC's environmental policy and secondary legislation and most importantly, it is also known as the Community's environmental action program, whose goal is to bring direction and continuity to the Community's environmental policies.

On 30 April 2004, the Environmental Responsibility Directive entered into force defining "*environmental harm*" as damage to endangered plants and natural habitats, water damage, and land damage. It also defined hazardous practices that would be liable for such harm. The organization demanded a causal relationship between operation and harm and granted environmental NGOs the ability to seek redress from the competent authority. For three years, the EU Member States transposed the Directive into domestic legislation, and it was completed by July 2010. Since the introduction of the ELD, it has been amended four times:

1. Directive 2006/21/EC on the management of waste from extractive industries.
2. Directive 2009/31/EC on the geological storage of carbon dioxide and amending several directives.

3. Directive 2013/30/EU on the safety of offshore oil, gas operations; amending Directive 2004/35/EC.
4. Regulation (EU) 2019/1010 on the alignment of reporting obligations in legislation related to the environment.

In June 2013, a fourth amendment was made to the Directive 2009/31/EC whereby extractive waste and the operation of storage sites was added to the list of dangerous occupational activities in Annex III of the ELD under The Offshore Safety Directive which extended the scope of damage to marine waters. The Regulation on reporting alignment adjusted the reporting needs to have a clearer proof basis. It will be useful to apply in the lawsuit next time (Environmental Liability, 2019).

According to a strict liability provision, the injurer is liable to pay for the damage where an accident happens. External costs, represented as the net expense of accidents under strict responsibility, will become private costs as the injurer will be responsible for social costs. In this respect, the injurer will take as many steps as practicable in order to minimize the risk of being responsible, because, the greater the degree of care he takes, the less likely it is (Niessen, 2006). For this regulation, the victim had protected the right and benefit when they get the impact negatively from the injured. In my opinion, if each country around the globe applied strict liability in their national laws, it would be useful for people involved in environmental damage lawsuits when we establishing the costs sought from perpetrators. Therefore, such strict liability guidelines would leave perpetrators with little room to maneuver under the negligence rules.

Furthermore, we need to mention environmental subsidies via grants, tax incentives, concessional loans, etc., which are extremely important for supporting the economy in agriculture, industries and services sectors. The most significant aim is to remedy environmental pollution in some situations when the injurer has lost the ability to bear the cost of handling environmental pollution. However, it could be argued that environmental subsidies should only be considered as a temporary measure because it could create adverse outcomes and put it into conflict with the PPP. In the writer’s view, here is a real danger some perpetrators could take advantage of environmental subsidies available for malevolent purposes and still walk away from their responsibilities for environmental damage caused.

The fundamental purpose of the Polluter Pays Principle is irrefutable: 'the polluter must bear the costs for enforcing the steps via a court-settled proceeding or an administrative penalty decision (at the State Authority's discretion). Through the international adoption, standardization, and implementation of these processes, it is envisaged that a significant impact will be made in the efforts to minimize the incidence of environmental degradation around the world.

Recently, the European Commission preferred to put into practice the principle that beneficiaries have to pay through the application of economic instruments such as enacting specific tax laws. This principle means that everybody who is beneficiaries of an environment that has improved has to pay a premium. In other words, this principle stipulates that when we are living in a clean and healthy environment that is relatively pollution-free we have to pay for the privilege.

Moreover, the most important aspect of this principle provides a solution to environmental problems with a unique perspective. When looking at the responsibility for the environment have tended widely to producers and/or consumers ought to coordinate with perpetrators are responsible for paying the cost of harm. It means that environmental damage is going to impact everybody's life around the ecological system. Hence, we need to carry out combined operations of all factors in society with the common aim of rehabilitating the

environment as soon as possible. In the other hand, environmental damage can be remedied quickly when we use the power of society. It's like "*Together we can change the world*". However, in some opinion, "*it is unreasonable to force producers to pay pollution taxes, especially when environmental ownership has not been clearly established. Indeed, forcing an enterprise that is polluting the environment to pay for their pollutant's harm seems like a fair idea. However, when production is at Q* production, the pollution is at the optimal level W*, but the enterprise is still required to pay taxes for all units of the product produced below this level. Is it reasonable? This uncertainty about the fairness of the Pigou tax explains why policymakers have not implemented it. However, the debate about who will pay for polluting behavior continues; for example, the Pigovian*" (Kimberly, 2020). Taxation which enables the polluter's liability to be brought within a disciplined statutory framework. *"Such a framework facilitates an arrangement whereby the cost of polluting activities is reflected in the cost of goods and services. In other words, the PPP provides the raison d'eªtre for Pigovian taxation, justifying it as a legitimate policy means of internalizing externalities. General speaking, the appropriate level of internalizing the external environmental costs is left for public authorities to decide domestically"*. Nevertheless, the Pigovian taxation is still disputed by scholars when they research about PPP, i.e. how to divide costs between effluent control costs and environmental damage costs. Accordingly*, "**Pezzey (1988)** argues that the PPP has two versions; the standard and the extended, depending on the definition of pollution costs. The standard version of the PPP requires polluters to pay only the effluent control costs, whereas the extended one imposes both the effluent control costs and the environmental damage costs on polluters" (Schmidtchen et al., 2020).*

The author proposes in this paper to explore the means by which the fundamentals of the PPP can be reconciled with the terms and conditions of Pigovian taxation via various refunding schemes, including the retention of the incentive structure of Pigovian taxation. Therefore, if we are looking at PPPs, we must note the fee payable by those who profit directly from the transformation of the environment and thus reduce the pressure on national wealth. For instance: the lake A is polluted because of wastewater discharged from factories, hospital wastewater and domestic wastewater from the community who lives around the lake. In this case, it can be very difficult to determine exactly who is the primary pepetrators and as such, should bear the majority of the costs to remedy the environmental pollution in the lake A. Perhaps this is why the most feasible and sustainable plan in this case would be a combination of State capital, revenues from environmental protection charges and taxes, along with capital mobilized from people in the region to improve lake A. This approach is also suitable in the PPP whereby all of agents (residents, factories, and hospital) must pay the costs of the solutions to remedy environmental degradation for everyone has the right to a healthy environment.

Hence, the PPP has a critical role in providing a legislative and judicial framework for cases involving environmental damage that are being adjudicated. We strongly believe that this regulation has universal application and should be considered for adoption by countries around the world as a model that provides an unambiguous, rigid and fair set of rules that ensures that those who cause pollution will be held accountable and will have to pay for their irresponsible actions.

The Regulations of Vietnam for PPP

Environmental legislation has in Vietnam provided in line with the concept of polluters paying for practicing liability. Any organisation, family or person who uses environmental components or environmental benefits is obligated to contribute financially to the mission of protecting the environment. Or any organisation, family or person who causes waste, emergencies and destruction is responsible for identifying remedies, for paying fines and for taking other obligations under the laws.

This Principle Requires the Following Two Requirements:

The payables for polluting acts must be commensurate with the nature and extent of their adverse impacts on the environment. The specific classification of the extent and nature of each act that causes bad impacts on the environment is very important. However, the effect of protecting the environment if using such a levelling is only around zero. The payables for polluting acts must be sufficient to affect the interests and behaviours of related entities (not symbolic). Through practical application in Vietnam, in order to meet the needs of environmental protection and in order to promote the superiority of using economic tools in the field of environment, the PPP content is being extended. The payers on the PPP are not only stopping polluters, but also including those who exploit and use environmental components. The law of Vietnam has this provision in Article 3 of the Law on environmental protection 2014.. However, not all cases that cause adverse environmental impacts must pay. The case of non-payment depends on the laws of each region usually; those who exploit and use the environment and impact on the environment to serve the essential needs naturally have to pay. For example, Vietnam's Mekong Delta region endures natural and socio-economic conditions that are limited and outdated compared to other areas in Vietnam. It's a fact of life the daily activities of many of its citizens includes discharging toxic materials directly into ponds, lakes, canals, and rivers polluting the environment but the lack of State monitoring and enforcement of financial penalties means that there is little or no deterrent to the continuation of these practices. As a result, a defector exemption from PPP is applied in this region. This is considered as the only solution for the people there (Loan & Benedikter, 2019).

Otherwise, the PPP in Vietnam is applied basically as follows: payments for exploitation of natural resources (royalties, auction of rights to exploit resources, protection taxes, environmental protection fees (for wastewater, mineral exploitation), payments for the use of services (garbage collection, hazardous waste management), payment for the use of infrastructure (rents for industrial parks, including the rent for centralized waste treatment systems), deposits for environmental improvement and restoration of resource exploitation activities. The natural resources tax: is a tax levied on acts of exploiting natural resources of organizations and individuals. This is one of the taxes levied on the use of some national assets, on the entity's exploitation of natural resources. The act of exploiting natural resources is a legal event giving rise to royalties. This is one of the taxes levied on the use of some national assets, on the entity's exploitation of natural resources. The act of exploiting natural resources is a legal event giving rise to royalties. Natural resource tax is revenue of the state budget to users of environmental components on natural resources in the production process. Natural resource tax has a specific role in implementing state management of the exploitation of national resources. The purpose of royalties is to limit unreasonable resource use needs; limiting the loss of

resources during exploitation and use; creating revenue for the budget and regulating the rights of people of all strata to use resources.

The Vietnam environmental tax is a levy on products and goods that, when used, will pollute the environment. The environmental tax plays an important role in raising the awareness of environmental protection in investment, production, and consumption of organizations and individuals, encouraging the economical and efficient use of energy, reducing the negative effects of production and consumption on the environment, minimizing environmental pollution and degradation. The main purpose of using the environmental protection tax is to raise the awareness of all classes in society about environmental protection, thereby contributing to changing production and consumption behaviours. The environmental protection tax levied on a unit of a product forces consumers to choose less polluting products, with a higher price, at a reasonable price or with limited consumption (more economical use). It holds polluters and associated entities responsible for the costs of their polluting activities. The environmental protection tax also contributes to the implementation of other environmental goals such as encouraging "*cleaner*" behaviors, encouraging the implementation of environmentally friendly "*revolutions*", and raising the prices of products and goods. From there, taxes can be used to stimulate and regulate production and consumption towards environmental protection. The environment protection fee is the amount payable to the State by organizations and individuals when committing acts of discharging into the environment or carrying out activities that generate a source of negative impacts on the environment. The environmental protection fee is charged on sources of polluting waste (wastewater, solid waste, emissions) as well as other sources of negative impacts on the environment (noise, vibration, airports, railway stations, wharves and ports.), and also mining activities (Kim, 2019). In principle, the fee must be commensurate with the level of causing destructive impacts on the environment. The service fees collected on the use of some environmental services, correspond to the costs of such services, such as provision of services, clean water treatment in urban areas, water supply for rural areas, urban solid waste collection and treatment services, hazardous waste management services.

In the world, apart from the Polluter Pays Principle, as in Vietnam, there are many other forms of penanty payments, such as money paid to purchase of the selling exhaust quota. An emission quota or pollution quota is a transferable discharge permit. The State recognizes the right of factories and companies to discharge a certain amount of waste into the environment. First, it is necessary to determine the total maximum acceptable level of pollution, and then allocate it to waste sources by issuing permits called polluting quotas. The total amount of emissions recorded on the licenses must be equal to the maximum acceptable. After the pollutant allocation of pollutants, polluters have the right to buy or sell free-disposal permits in the market. The quota is flexible, easy to use, easy to control, and relatively fair. Project owners can negotiate the carbon transfer to minimize emissions costs. The quota is usually for factories with high pollution treatment costs, and waste will be treated at factories with lower treatment costs (Phuc, 2019). The deposit refund in environmental protection activities is essentially a financial guarantee mechanism for the types of products that must be recovered reused after use. It must be used with care, the purpose of which is to ensure the collection of consumables used by consumers in a centre for reuse or recycling. This system has been very effective because it has encouraged the deposit and minimizes waste that is harmful to the environment. In many cases, especially, the deposit is included in the selling price, consumers do not know but they feel many benefits when they receive money from the deduction of scrap for suppliers or collection centres.

In fact, many countries have adopted it as a way to recover the glass bottles in the beer, wine, beverage, chassis industry, and automobile industry. The deposit for environmental renovation and restoration in natural resource exploitation shall be applied to organizations and individuals exploiting natural resources.

Many organizations and individuals are required by law in many countries to make deposits at domestic credit institutions. The level of deposit depends on the size of the resource exploitation, the degree of causing bad impacts on the environment as well as the necessary expenses for environmental rehabilitation and restoration after exploitation. The deposit amount must be more significant or approximately the amount needed to restore the environment. Depositing organizations and individuals are entitled to the arising interest rates and the deposit amount after the environmental renovation and restoration are completed. If organizations and individuals fail to fulfil their obligations to renovate or restore the environment or fail to meet the requirements, all or part of the deposit shall be used to renovate and restore the environment where they are organized. The form of the environmental improvement and restoration deposit not only saves countries from having to invest in remedying the polluted environment in exploiting natural resources, but also raises the responsibility to implement environmental protection obligations of organizations and individuals, encouraging environmental protection activities, ensuring the environmental benefits of the community, and supporting the implementation of administrative measures in environmental protection.

It is necessary to distinguish clearly when an entity commits acts within the framework of law but has a negative impact on the environment, they have to pay. Suppose an entity commits an act of law sanction, in that case, they will be sanctioned according to the seriousness of the violation, which may be an administrative violation in the form of a fine. It is not a form of payment for environmental exploitation and use but a form of sanctions for law violations. Fines for administrative violations in the field of the environment are the amounts payable by organizations and individuals when committing acts of violating the State management regulations in the field of environmental protection, intentionally or unintentionally, that may not constitute a crime and under the provisions of the law must be subject to a fine.

The fines are specifically for violations of regulations on assessing of environmental impacts, environmental pollution, violations of waste management, and violations of regulations on environmental protection of production and business establishments, business and service, violating regulations on prevention, remediation, degradation, and environmental incidents. The PPP forms of pollution have the critical characteristic that polluting acts are still within limits allowed by law. At the same time, fines for administrative violations only arise when they are committed violating the provisions of the law in the field of environmental protection but not seriously enough to be examined for penal liability. While the PPP payments must result in environmental protection in the broadest sense, the subjects violate the administrative laws in the field of environmental protection. Whether it has an adverse impact on the environment or not is still subject to fines despite the behaviour. Administrative sanctions in the field of environmental protection are considered one way to ensure the fulfilment of the payment obligations of polluting subjects by polluting acts, but they do not under PPP. In the forms of payment according to the PPP, the owners have the right to pollute to the extent permitted by law but they are obliged to pay for such acts. According to the PPP, paying for polluting acts is the legal obligation of the subjects, which is the way the State, forces them to take action to meet the exercise of the rights of other entities (Trung, 2019).

A legal obligation is not in itself an act but a necessity to do so. If that need is expressed in practical activities, that legal obligation has been fulfilled. Meanwhile, compensation for damage caused by environmental pollution is a form of liability. An adverse consequence to the subjects, reflected in the special relationship between the State and the entities, in order to force the party causing damage to other entities to overcome the consequences by compensating for the material and mental losses they suffer in accordance with the law. Accordingly, people who commit acts causing environmental pollution, environmental degradation, environmental incidents, impairing the function and usefulness of the environment, harming human health and life and talents, production and legitimate interests of organizations and individuals must compensate for such acts. Compensation for damage caused by environmental pollution is responsible for entities to pay damages outside the contract - one of the institutions with a long history in civil law.

CONCLUSION

The principle that polluters pay is one of the principles of environmental law. This principle best reflects the economic measures in environmental protection, using economic benefits to impact the behaviour of entities in a way that benefits the environment. The environmental laws of many countries use this principle as one of the main ways to concretize that 'polluters' need to pay. The primary meaning of the principle that polluters pay is that polluters will be financially responsible for compliance with environmental requirements set by the competent authority. However, the incorrect or incomplete understanding of this principle often happens in practice.

Currently, the polluter pays principle is increasingly acknowledged also a binding principle of law. The environment is a very complex entity witches its own set of natural procedures to maintain its stability. It is vast, and humans are inclined to interfere with it, due to which it may get destabilized. However, everything has a limit. When this interference goes beyond that limit, the environment cannot cope with these sudden changes, leading to its degradation.

Therefore, the environment is a contentious issue for Vietnam and many countries in the world are they developing or developed. Via analysis of Environmental science theories "*Payers of Payments"* and *"Payees of Pay*"; the law and practice of the law on environmental pollution in Vietnam, the world experience in law building on environmental pollution. Specifically, the article had studied the laws of Europe in PPP. It is then proposed to improve the legal provisions on compensation for environmental pollution in Vietnam today. Vietnam is a developing country where the skills of legislating are weak. That’s why Vietnam should learn about experience in developed countries as the European laws for rebuilding laws in Vietnam. Generally speaking, this is the most important not only in Environmental law but also in most of the laws in Vietnam today.

Thus, the author hopes that this article will help readers have a more general overview of PPP according to European law and Vietnam. The author agrees with the approach to forms of implementation of the PPP through financial obligations in the current legal provisions of Vietnam. However, along with the process of economic development, the act of making PPP is also very diverse. Therefore, in the approach to the PPP in a multi-dimensional direction, Vietnamese law should expand the scope of the PPP. From the above analysis, according to the

author, the content of the PPP is understood as holding to account and penalizing the subjects that cause negative impacts on the environment, discharging into the environment, and exploiting environmental factors to pay for acts causing pollution. It is off-setting the negative impacts of pollution through financial obligations and other forms of payment. Money paid for polluting activities is used to renovate and restore the environment and compensate for environmental losses according to the laws of each country.

REFERENCES

Arthur, C. (2019). The birth and foundation of an international polluter pays principle. In *the negotiations of the COP24 in Katowice 2018 and thus chose to write about the Polluter Pays principle.*

Bienemann, C. (1996). *Civil liability for environmental pollution, Different regimes and different eerspectives*. University of Aberdeen.

Campbell-Mohn, C.I., & Cheever, F. (2019). *Environmental law.* Professor of Environmental Law, University of Denver, Colorado.

Campbell-Mohn, C.I., & Cheever, F. (2020). *Environmental law.* Professor of Environmental Law, University of Denver, Colorado.

Environmental Liability. (2019). *The European Commission.* Retrieved from https://ec.europa.eu/environment/legal/liability/index.htm

Kim, L. (2019). *New proposal for environmental protection fees for wastewater. Online Newspaper of The Government of the Socialist republic of Vietnam.* Retrieved from http://baochinhphu.vn/Chinh-sach-moi/De-xuat-moi-ve-phi-bao-ve-moi-truong-doi-voi-nuoc-thai/363977.vgp

Kimberly, A.P. (2020). *Taxes, their pros and cons, and examples.* Retrieved from https://www.thebalance.com/pigouvian-tax-definition-and-examples-4157479

Lammers, J. (2001). International responsibility and liability for damage caused by environmental interferences. *Journal of Environmental Policy and Law, 31*(1), 42-50.

Loan, N.T.P., & Benedikter, S. (2019). *The issue of water pollution in the Mekong Delta: Difficulties and challenges in enforcing the law on water protection in Can Tho city.* Retrieved from https://www.researchgate.net/profile/Simon_Benedikter/publication/258884205_Van_de_o_nhiem_nguon_nuoc_o_DBSCL_Nhung_kho_khan_va_thu_thach_trong_viec_thuc_thi_phap_luat_bao_ve_tai_nguyen_nuoc_o_thanh_pho_Can_Tho/links/0c9605295529e43892000000.pdf

Margaret, R.G. (2020). Agriculture and the polluter pay principle. *Electronic Journal of Comparative Law, 11*(3), 1-9.

Niessen, N. (2006). *Environmental law in development: Lessons from the Indonesian experience.* Edward Elgar Publishing.

Phuc, D.G. (2019). Emissions trading market: International experience and direction for Vietnam. *Electronic Magazine Finance Vietnam.* Retrieved from http://tapchitaichinh.vn/nghien-cuu--trao-doi/trao-doi-binh-luan/thi-truong-mua-ban-phat-thai-kinh-nghiem-quoc-te-va-dinh-huong-cho-viet-nam-142803.html

Robert, P., & Reva, S. (2004). Popular constitutionalism, departmentalism, and judicial supremacy. *California Law Review, 92*(4), 1027-1043.

Schmidtchen, D., Helstroffer, J., & Koboldt, C. (2020). *Regulatory failure and the polluter pays principle: Why regulatory impact assessment dominates the polluter pays principle.*

Trung, V.T. (2019). *The polluter pays principle in the Vietnam law.* Ho Chi Minh University of Law.