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FORMS OF LEGAL LIABILITY AND THEIR INCIDENCE IN CASES OF VIOLATIONS OF LAND LEGISLATION

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Abstract: *This article examines the issue of legal liability applicable to violations of land and cadastral legislation, analysing it within the framework of the new regulations introduced by the Land Code of the Republic of Moldova. The study highlights the contemporary relevance of the debate on the forms of legal liability and argues that land liability may be regarded as a distinct form of legal liability, shaped as a response to the need to protect both public and private interests. It further explores the forms of liability and their incidence in cases of breaches of land legislation, namely civil, contravention and criminal liability, against the backdrop of cadastral modernisation, the digitalisation of real estate management processes and the increasing number of disputes concerning boundaries and land use. The paper analyses both the conceptual foundations and the practical applicability of liability, with reference to jurisprudence, current challenges and directions for legislative improvement, including comparative insights from European states.*

Keywords: *land-related contraventions; land damage; land legal liability; legal regime of land.*

Introduction

Regulating legal relations that concern the legal regime of land represents one of the most sensitive and complex dimensions of contemporary law, as it addresses a fundamental resource that is both

limited in availability and essential for socio-economic development. In this context, land legislation establishes a rigorous normative system aimed at the protection, rational use and conservation of land, and the non-observance of these norms naturally triggers the intervention of mechanisms of legal liability.

Legal doctrine recognises the polyvalent nature of the institution of liability, which manifests itself in distinct forms, including criminal, administrative, civil, disciplinary, material, financial and patrimonial liability, depending on the nature of the act, the gravity of the violation and the branch of law concerned. This diversity is particularly evident in land law relations, where breaches of rules governing the protection, use and administration of land generate legal consequences that may simultaneously fall under several forms of liability.

Nevertheless, the analysis of land legislation reveals certain conceptual and practical difficulties. Although the normative framework sets out clear obligations regarding the legal regime of land, the legislator does not always provide an express definition of the notion of land-related violation, leaving open the issue of delineating forms of illicit behaviour and the criteria for juridical qualification. In the absence of a unified conceptual framework, law-enforcement bodies are often required to resort to analogy, systemic interpretation and instruments of common law, which complicates both the prevention and the effective sanctioning of unlawful acts.

In this context, an in-depth examination of the manner in which each form of legal liability operates within land law relations becomes necessary. Given that land norms regulate a wide range of aspects, from property rights over land to specific requirements in the agricultural, urban planning and environmental fields, it is essential to determine whether violations of such norms may constitute an autonomous segment of legal liability or whether they continue to be naturally absorbed by the traditional forms of civil, administrative or criminal liability (Stahi and Robea, 2025, p. 379).

Legal Liability – a Pillar of Land Protection

The profound transformations that have marked the field of land relations in recent years, culminating in the adoption of the new Land Code of the Republic of Moldova (2024) and the accelerated regulatory developments concerning the administration, protection and sustainable use of land, have generated a conceptual repositioning of legal research in the field of land law.

The interaction between land norms and various branches of law produces complex situations in practice, where the same act may simultaneously trigger civil liability for damage caused to the land, contravention liability for the breach of soil-use regulations, or even criminal liability when socially protected relations are seriously affected.

Moreover, recent legislative developments, including alignment with European standards in the area of soil protection, call for a reassessment of the manner in which legal liability instruments are employed in this sector.

1. Civil liability occupies a central place in the architecture of land protection due to its capacity to restore the patrimonial and ecological balance affected by the unlawful act, irrespective of any administrative or criminal sanctions applied to the author of the violation. At the same time, land relations, being fundamentally patrimonial relations involving rights of ownership, use and possession, are directly connected to the institutions of civil law.

Its importance is amplified by the strategic character of land, regarded as a non-renewable natural resource with major ecological and economic value. Doctrine has consistently emphasised that civil or patrimonial liability displays superior flexibility compared with other forms of liability, as it allows reparatory measures to be tailored to the specific nature of the damage produced (Stahi & Boscan, 2018, p. 19).

According to the provisions of the Civil Code of the Republic of Moldova, articles 1998–1999 and 2025–2026 (Law No. 1107/2002) set out the general conditions of delictual liability and the rules on reparation of damage. In the field of land law, the Land Code (Law No. 22/2024)

specifies in article 78 paragraph (2) that the application of criminal or administrative sanctions does not exempt the author of the act from the obligation to repair the damage caused.

This rule has been reinforced in jurisprudence. The Plenum of the Supreme Court of Justice, through Decision No. 8 of 22.12.2014 "On the judicial practice regarding the application of land legislation", underlined that any violation affecting land, regardless of the nature of administrative sanctions, triggers civil liability whenever material or ecological damage results.

According to I. Trofimov, in cases where ecological damage, including land damage, is caused, contravention and criminal liability are subsidiary, whereas civil or patrimonial liability is primary, as it operates through the obligation to repair the harm (Trofimov, 2013, p. 23). Doctrine further notes that mechanisms of land protection rely primarily on patrimonial liability as the fundamental instrument for restoring juridical and ecological balance, since soil degradation generates long-term effects that cannot be remedied through contravention or criminal sanctions. Thus, whenever liability entails modifications to the patrimony, the defining features of patrimonial liability become evident (Stahi, 2015, p. 153).

Land-related damage as a determining element. Damage constitutes a *sine qua non* condition of civil or patrimonial liability, encompassing both the actual loss (*damnum emergens*), meaning the value of the performance owed by the debtor, and the loss of profit (*lucrum cessans*). The absence of damage or the impossibility of proving it leads to the exoneration of the person concerned from liability (Stahi, 2016, p. 294).

In recent years, a significant transformation of the regime of civil delictual liability has been observed, driven by the need to adapt it to the particularities of environmental protection and land protection. This legal evolution reflects the consistent application of fundamental principles of environmental law, particularly the precautionary principle and the "polluter pays" principle (Petrașcu-Mag, 2011, pp. 253–254), both of

which have direct relevance to liability for damage caused to soil and land resources.

Authors A. Anisimov and A. Rujencov argue that land-related damage should also be assessed with regard to the "lost ecological value," and not solely to the immediate economic loss (Anisimov and Rujencov, 2013, pp. 256–258).

Land-related damage may include agronomic damage (degradation of the fertile soil layer), ecological damage (pollution, salinisation, compaction, erosion), cadastral damage (clandestine alteration of boundaries), and economic damage (reduced productivity, rehabilitation costs).

In contemporary doctrine, the central debate concerns the role of fault in triggering patrimonial liability for ecological and land-related damage. The controversy revolves around whether objective liability, based exclusively on the existence of damage, should constitute the sole foundation of civil liability for harm caused to the environment and to land. Doctrinal analysis shows that both affirmative and negative answers generate advantages and disadvantages for the parties, either in terms of strengthening the position of the creditor seeking reparation or in terms of mitigating the legal burden imposed on the author of the wrongful act (Duțu, 2013, p. 6).

Unlike criminal or contravention liability, where fault is essential and constitutes a defining element of the offence (Ursu, 2014, p. 295), in civil matters the essential criterion remains the damage. The literature notes that patrimonial liability is predominantly objective in nature, and that emphasis should shift towards the existence of damage and the causal link, these being the primary conditions for engaging liability.

Thus, fault constitutes the subjective element of patrimonial liability, whereas the other conditions of this liability examined so far have an objective character (Baltag and Stahi, 2017, p. 13).

In the law of the Republic of Moldova, the normative framework confirms the orientation toward an objective regime of liability in the field of environmental protection and, by extension, in the field of land-related damage. According to Article 3 letter c) of the Law on Environmental Protection (Law No. 1515/1993), any natural or legal

person is required to repair the damage caused to the environment, and the compensation for such damage is borne by the author of the act, even when it was committed unconsciously or through negligence. The use of the term "unconsciously" signals the express acceptance of objective liability, in which fault is no longer a determining condition.

This legislative and doctrinal orientation is fully compatible with the nature of civil liability in the land law domain, where damage to land soil degradation, loss of fertility, and disturbance of ecosystems, is often the result of complex processes in which proving fault becomes difficult or even impossible. Therefore, the integration of concepts from environmental law strengthens the argument that, in the field of land law, damage and the causal link constitute the essential elements for engaging liability, while the author's fault plays a secondary or even irrelevant role.

In the field of land law, fault is relative and not always decisive. The literature demonstrates that, in numerous cases, damage to soil is the result of complex technical, natural or administrative processes, which makes the proof of fault difficult (Stahi, 2020, pp. 158–159).

This thesis is also supported in Russian doctrine. S. A. Bogoliubov argues that unlawful acts in the sphere of land relations often constitute activities with increased danger, which justifies the engagement of objective liability (Bogoliubov, 2009, pp. 254–257).

M. Yu. Tihomirov notes that fault cannot serve as an exclusive criterion, since ecological damage may arise independently of the author's intent (Tihomirov, 2010, p. 43).

Therefore, civil liability in land law approaches the conceptual framework of objective liability, being centred on the existence of damage and the necessity of its reparation.

The incidence of civil liability in the land law domain is closely linked to the breach of obligations expressly established in Article 22 of the Land Code of the Republic of Moldova (Law No. 22/2024), which sets out the duties of landowners and other holders of land. The violation of these obligations may generate damage both to neighbours and to the environment, giving rise to delictual or contractual civil liability. Thus,

the failure to respect land boundaries and the deterioration of boundary markers may lead to disputes concerning property limits, and the landowner is required to repair the damage caused. Likewise, neglecting the obligation to use the land according to its designated purpose or to prevent actions that affect, quantitatively or qualitatively, neighbouring land frequently results in economic losses that necessitate the engagement of civil liability. Civil liability also arises in situations involving the omission to apply soil protection, amelioration and degradation-prevention measures provided in Article 22 letters c), f) to o).

Failure to comply with the obligation of phytosanitary maintenance or the failure to notify the authorities regarding the change of use of agricultural land may directly affect the rights of other persons and may generate damage that must be repaired.

A major difficulty in the effective application of civil liability for breaches of land legislation lies in the absence of clear legal criteria for assessing land-related damage. In its current form, the Land Code does not define or distinctly delimit essential notions such as agronomic damage, ecological harm, loss of soil fertility or agrochemical rehabilitation costs.

The lack of such legal benchmarks creates uncertainty in determining the extent of the damage, generates inconsistent judicial practice and complicates the task of courts in establishing the amount of compensation. Specialised literature has consistently emphasised the need to develop standardised and uniformly applicable criteria for evaluating damage caused to land (Ciubucov G. V. and V. V. Kurochkina, 2012, p. 138), criteria that would integrate both the patrimonial and the ecological components of the harm produced.

2. Contravention liability for violations of land legislation. Contravention liability represents, within the current legal order, one of the primary instruments in the mechanism for protecting the land fund, fulfilling an essential preventive and disciplinary function. Owing to its moderate sanctioning nature, this form of liability is capable of responding swiftly to low- or medium-intensity violations that do not

reach the threshold of social danger specific to criminal offences, yet affect the legal order governing land use and create a risk of soil deterioration. Thus, land-related contraventions emerge as a genuine tool of normative stabilisation, indispensable for preventing soil degradation, maintaining land-use discipline and safeguarding the public interest associated with the sustainable use of land.

Within the normative system of the Republic of Moldova, the legal framework governing contravention liability for breaches of land legislation is established by the Contravention Code (Law No. 218/2008), an act which, in its updated form, contains a set of relevant norms aimed at protecting the soil, ensuring the integrity of cadastral boundaries and upholding the legal regime governing the use of land.

At present, the contravention framework relevant to the sanctioning of violations in the field of land legislation is found in a series of provisions of the Contravention Code of the Republic of Moldova, which establish a diversified mechanism of legal protection for land. Article 92 of the Contravention Code sanctions the concealment of information regarding available land resources, as well as the failure to observe the deadlines for examining citizens' requests concerning the allocation of land. Furthermore, Article 93 regulates violations of legislation in the fields of geodesy, cartography and topography, with paragraph (2) expressly addressing the destruction of boundary markers, an act with direct impact on property delimitation.

Also within the sphere of land-related illicit acts is Article 115, which incriminates the degradation of land and the falsification of information regarding its condition and use, thereby safeguarding soil integrity and the accuracy of land records. Article 116 sanctions the unauthorised deviation from land-use or territorial planning projects, including use contrary to the designated purpose or breaches of soil protection rules established by the Land Code.

Complementarily, Article 117 addresses the failure of landowners to restore the land to a condition suitable for use in accordance with its designated purpose, including the obligation to prevent and combat the spread of weeds. Article 118 incriminates the non-execution of

mandatory measures for the amelioration and protection of soil against erosion and other degrading processes.

In cases involving serious harm to the soil, Article 120 of the Contravention Code sanctions the unauthorised removal or destruction of the litter layer, vegetation cover and the fertile upper layer of the soil. Finally, Article 149 establishes contravention liability for environmental pollution resulting in damage, including contamination of land with industrial, construction or household waste, with wastewater or with polluting emissions.

The current regime of land-related contraventions, as set out in the provisions of the Contravention Code of the Republic of Moldova mentioned above, is characterised by a clear predominance of the contravention fine as the main sanction. Consequently, the amount of the fine may be either lower or higher than the actual value of the agricultural or ecological damage, and the sanction may be applied even in the absence of a materialised harm, based solely on the breach of the legal regime governing land use. The payment of the fine does not, however, exempt the offender from the autonomous civil obligation to provide full reparation for the damage, in accordance with the general rules of delictual liability and with Article 78 paragraph (2) of the Land Code. From the perspective of the severity of the effects on soil and the environment, the fine ranges provided by the Contravention Code appear relatively lenient, which may contribute to the repetitive nature of land-related violations.

In light of the “polluter pays” principle and the need for sustainable soil protection, a legislative re-examination of fine thresholds is necessary, alongside the introduction of complementary measures, in order to ensure a sanctioning regime proportionate to the gravity of the acts and to the specific nature of land as a resource. In certain situations involving subsoil or mineral resources (Article 119 of the Contravention Code), supplementary sanctions may also be applied, such as the deprivation of the right to carry out a certain activity, although the fine remains the central instrument of the sanctioning framework (Law No. 218/2008).

By comparison, the Moldovan contravention regime in the field of

land law appears rather moderate, both in terms of fine levels and in the limited emphasis placed on administrative land remediation obligations. Russian, Romanian and especially European legislation have evolved towards combinations of substantial fines and robust requirements for soil restoration, in accordance with the "polluter pays" principle. This contrast offers a strong argument for a de lege ferenda critique: the necessity of recalibrating land-related contravention sanctions in the Republic of Moldova, including increasing fine levels, aligning them with the value of the damage and introducing explicit mandatory remediation measures.

Directive 2004/35/EC on environmental liability establishes a regime of administrative liability for environmental damage based on the "polluter pays" principle and focused primarily on the remediation of harm, namely the restoration of soil, water and habitats to their baseline condition, rather than on fines per se (Article 8). Member States are required to provide for sanctions that are effective, proportionate and dissuasive, and to ensure that operators bear the costs of preventive and remedial environmental measures (Article 23). In practice, many states combine high administrative fines, mandatory soil restoration obligations and, for severe cases, criminal liability for environmental offences (Directive 2008/99/EC on the protection of the environment through criminal law).

Furthermore, the Code maintains certain administrative procedural facilities, among which the possibility of paying half of the fine if payment is made within three working days from the application of the sanction is particularly notable, a solution which, as highlighted by researchers A. Talambuță and T. Stahi, manages to combine efficiency with fairness. Through such instruments, including adjusted fine levels, the option of accelerated payment and complementary sanctions, the Contravention Code seeks to professionalise the real estate market, transforming it from a vulnerable sector into one that is standardized transparent and legally disciplined, while also strengthening the protection of third parties within civil circulation (Talambuță and Stahi, 2025, p. 186).

3. Criminal liability for violations of land legislation. Criminal protection of the land fund is triggered when unlawful acts exceed the contravention sphere, seriously affect the integrity of land, compromise the environment or endanger public order in the field of natural resource use. Unlike contravention liability, which is primarily oriented towards discipline and prevention, criminal liability operates as the state's ultimate reaction to violations that severely harm fundamental social interests such as the environment, property, and ecological and land security.

In the law of the Republic of Moldova, the Criminal Code (Law No. 985/2002) does not contain a chapter dedicated exclusively to "land offences," yet several offences regulated by the Criminal Code may be directly or indirectly engaged in cases of breaches of land legislation. These provisions sanction acts that, by their nature, affect land, cadastral boundaries, soil, the environment or property rights.

One of the situations in which the violation of land norms acquires criminal relevance is set out in Article 193 of the Criminal Code of the Republic of Moldova, which incriminates the unlawful occupation of immovable property. The provision covers not only the unauthorised use of land but also related actions that affect the integrity of cadastral boundaries, such as the destruction or displacement of boundary markers.

According to Article 193 of the Criminal Code of the Republic of Moldova, the unlawful, whether total or partial, occupation of an immovable property belonging to another person, committed through violence, threats of violence or by damaging boundary markers, constitutes an offence and is punishable by a criminal fine ranging from 1150 to 1850 conventional units (equivalent to 57,500–92,500 lei), by unpaid community service for a duration between 150 and 240 hours, or by imprisonment from two to four years. In the case of legal persons, sanctions consist of a fine ranging from 2000 to 4000 conventional units (100,000–200,000 lei), accompanied by the deprivation of the right to carry out certain activities.

The aggravated form of the offence, namely committing the act on grounds of prejudice, entails increased sanctions: a fine ranging from 1350 to 2350 conventional units (67,500–117,500 lei), unpaid

community service between 200 and 240 hours, or imprisonment from two to five years. For legal persons, the sanction increases to 4000–6000 conventional units (200,000–300,000 lei), also accompanied by the deprivation of the right to engage in a particular activity.

The destruction or displacement of boundary markers constitutes a direct interference with land order and, at the same time, a premise for disturbing property rights, which justifies the classification of such conduct within the criminal sphere.

Also falling within the category of offences relevant to land protection are the provisions of Article 136 of the Criminal Code, entitled "Ecocide," introduced for the first time into the criminal legislation of the Republic of Moldova as part of the 2002 reform. This article sanctions the intentional mass destruction of flora or fauna, the poisoning of the atmosphere or water resources, as well as other actions capable of causing, or having caused, an ecological catastrophe. Since soil constitutes an integral component of the environment, large-scale actions that degrade the fertile soil layer, pollute land or alter ecosystem functions may fall within the scope of this incrimination. The gravity of the act is reflected in the particularly severe sanction, namely imprisonment for a term ranging from ten to fifteen years. In the field of land law, ecocide may encompass situations such as the large-scale destruction of the fertile soil layer, the mass contamination of agricultural land with toxic substances, intentional actions that render land unusable for long periods, or large-scale illegal deforestation with significant impact on soil.

Soil degradation is internationally recognised as one of the most serious forms of ecological harm.

Criminal protection of soil and the environment is enshrined in Chapter IX, "Offences against the Environment," which includes incriminations that may directly concern land, soil fertility and ecological balance. These offences are particularly relevant in the context of land use, since soil degradation represents, in essence, a violation of the biological environment.

In addition to offences directly related to the unlawful occupation of immovable property, a systematic analysis of the Criminal Code highlights other provisions with significant implications for land governance. Thus, Article 327 of the Criminal Code, concerning abuse of power or exceeding official authority, sanctions the conduct of public officials who unlawfully allocate land, issue unjustified permissive acts or improperly favour certain persons, thereby affecting the rights of legitimate owners and the legality of land operations. Likewise, Article 332, which addresses forgery in public documents, holds particular relevance in the land law sphere, as the falsification of cadastral extracts, layout plans, allocation acts or topographic plans constitutes a recurrent unlawful practice with a high potential to compromise the security of civil transactions involving land.

The intervention of criminal law is justified in situations where the damage caused to land is serious or irreversible, where the act threatens ecological security, where fundamental rights such as property, health or a clean environment are affected, or where contravention measures can no longer provide the necessary protection.

Contemporary doctrine increasingly emphasises that, in the context of accelerated soil degradation and heightened pressures on agricultural land, criminal sanctions must be regarded as a last resort, yet also as an indispensable instrument for safeguarding the public interest in the land sector. In a society in which land constitutes a strategic resource, the correct and coherent application of criminal law norms represents an essential guarantee of ecological and land security.

Conclusions

A multidimensional analysis of legal liability applicable to violations of land legislation reveals a complex landscape in which the norms of civil, contravention and criminal law intersect and complement one another to ensure the effective legal protection of the land fund.

In conclusion, it may be noted that civil liability remains the foundation of land protection due to its reparatory role and its capacity to restore the disrupted patrimonial and ecological balance. However, the

absence of legal criteria for assessing land-related damage, together with the lack of definitions for notions such as agronomic damage, ecological soil degradation or loss of fertility, constitute major gaps in the normative framework and call for urgent legislative intervention. In line with Romanian, Russian and European doctrine, as well as with domestic scholarly contributions, the need emerges for an objective approach to patrimonial liability in land matters, centred on the damage incurred and on the restoration of land in natura.

With regard to contravention liability, the analysis shows that the current sanctioning regime, although covering a wide spectrum of violations (use contrary to designated purpose, unlawful occupation, pollution, degradation, destruction of boundary markers), is affected by the inadequacy of fine levels and the absence of standardised methodologies for assessing damage. Compared with EU Member States, where sanctions are effective, proportionate and dissuasive, and where operators are required to bear the full costs of rehabilitation, the Moldovan contravention regime remains undersized and lacks practical effectiveness.

In the sphere of criminal liability, criminal legislation establishes a severe system of sanctions for acts that produce or risk producing major ecological imbalances, emphasising that soil protection cannot be analysed in isolation but must be integrated into the broader dimension of ecological security and ecosystem conservation.

By comparison, international doctrinal and legislative developments highlight a clear trend towards integrating land liability into a complex system grounded in the principles of precaution, sustainable development and the “polluter pays” principle. Directive 2004/35/EC, the jurisprudence of the Court of Justice of the European Union and national models from states such as Germany, France, the Netherlands and Romania demonstrate that soil protection requires reinforced instruments: increased sanctions, firm rehabilitation obligations, ecological assessment of damage and proactive administrative mechanisms.

From a doctrinal perspective, given the specific characteristics of soil as a limited, non-reproducible natural resource with essential ecosystem functions, it may be affirmed that land liability can no longer be approached in a fragmented manner, exclusively through the lens of the classical forms of legal liability. It is increasingly shaped as an integrated concept situated at the intersection of civil, contravention, criminal, administrative and environmental law, combining reparatory, preventive and ecological-protective functions.

In light of the analysis, it becomes necessary to design a modern normative land framework, harmonised with European trends and international standards, which should include the legal definition of land-related damage and the criteria for its assessment, the introduction of mandatory in natura remediation across all forms of liability, the increase of contravention sanctions and the strengthening of their dissuasive character, greater accountability of public authorities in the management of the land fund, the unification of the normative framework on soil protection and the creation of a coherent doctrine of integrated land liability.

The present study confirms the need for reforms and provides the doctrinal basis for the further development of a coherent and effective land policy aligned with European and international standards in the field.

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