

ЕКОЛОГІЧНЕ ПРАВО

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STATE ENVIRONMENTAL POLICY: LEGAL ANALYSIS

У статті розглянуто основні теоретико-методологічні основи формування екологічної політики держави в умовах реформування децентралізації та набуття органами місцевого самоврядування відповідних повноважень. Визначено складові екологічної політики в демократичному суспільстві, а саме: належну та ефективну систему державного управління у сфері охорони, невичерпного використання та відтворення природних ресурсів; належний державний і громадський нагляд за дотриманням чинного екологічного законодавства та міжнародних екологічних зобов'язань країни; відповідна екологічна інформаційна політика; відповідний рівень екологічної експертизи екологічно небезпечних проєктів; відповідна система прийняття державних рішень з екологічних питань, яка передбачала б обов'язкове залучення громадськості; належна система відповідальності органів влади, окремих посадових осіб та громадян за порушення принципів збалансованого розвитку, норм і положень природоохоронного законодавства; належна виховна та виховна діяльність.

Проведено аналіз законодавчих актів, що регулюють екологічну політику в цілому та за окремими напрямками реалізації, зокрема, і у сфері природокористування. Зазначається, що Україна як невід'ємний учасник розвитку світової економіки поступово спрямовує власні зусилля на впровадження ресурсозберігаючих заходів. Автор робить висновок про необхідність удосконалення чинного екологічного законодавства України шляхом реформування системи нормативно-правових актів для створення ефективних інструментів реалізації концепції сталого розвитку, що можливе лише за сприяння та в контексті інтеграції екологічної політики у соціальну - економічне життя суспільства і держави.

Ключові слова: екологічна політика, держава, екологічне законодавство, екологічні проблеми, екологічна експертиза.

Sukhorebra T. STATE ENVIRONMENTAL POLICY: LEGAL ANALYSIS

The article considers the main theoretical and methodological foundations of the formation of environmental policy of the state in terms of decentralization reform and the acquisition of appropriate powers by local governments. The components of environmental policy in a democratic society are identified, namely: proper and effective system of public administration in the field of protection, inexhaustible use and reproduction of natural resources; proper, state and public supervision over the observance of the current environmental legislation and international environmental obligations of the country; appropriate environmental information policy; appropriate level of ecological expertise of ecologically dangerous projects; an appropriate system of state decision-making on environmental issues, which would provide for mandatory public involvement; proper system of responsibility of the authorities, specific officials and citizens for violation of the principles of balanced development, norms and provisions of environmental legislation; proper educational and educational activities.

The analysis of the legislative acts regulating the ecological policy in general and in separate directions of realization, in particular is carried out and in the field of nature management. It is noted that Ukraine as an integral participant in the development of the world economy is gradually directs its own efforts to implement resource-saving measures. The author concludes that it is necessary to improve the current environmental legislation of Ukraine through reform system of regulations to create effective tools for implementing the concept of sustainable development, which is possible only by assistance and in the context of integration of environmental policy into the socio-economic life of society and the state.

Keywords: environmental policy, state, environmental legislation, environmental issues, ecological expertise.

Formulation of the problem. Ukraine celebrated the 31st anniversary of Independence. During this time he went through a thorny path of formation and development, but managed to achieve significant achievements and strengthen its authority in the international arena. It should be noted that environmental protection has always been, is and remains one of the priorities of both domestic and foreign policy of our state, on the implementation of which depends not only the present but also the future of future generations.

In 31 years, Ukrainian environmental policy has undergone significant transformational changes, as the vector of its development has often changed due to the emergence of new challenges and challenges. Of course, such changes were reflected in the relevant regulations, which determine the principles of environmental policy of Ukraine.

Analysis of recent research and publications. Issues of state policy in the field of rational use and conservation of natural resources at different times were the subject of scientific interests and developments of such

prominent scientists as V.L. Muntian, Yu. S. Shemshuchenko, O.S. Kolbasov, Y.O. Vovk, B.G. Rozovsky, II Karakash, V.I. Andreitsev, A.P. Hetman, V.K. Malolitneva, G.I. Baliuk, O.S. Zarzhytsky and others.

The purpose of the article is to reveal the essence of the development of state environmental policy in the years of independence, the main achievements and prospects. Also an analysis of changes that are reflected in the relevant regulations that define the principles of environmental policy.

Presentation of the main material of the study. It should be noted that the Constitution of Ukraine, adopted on June 28, 1996, is the legal basis for the formation and implementation of modern environmental policy. It was Yu. Shemshuchenko's initiative of the director of the Institute of State and Law named after V.M. Koretsky of the National Academy of Sciences of Ukraine, Academician of the National Academy of Sciences of Ukraine. First, it is a question of establishing a special regime of ownership of natural resources (Article 13) and consolidating the right to a safe environment for life and health and free access to environmental information (Article 50). In turn, based on international legal practice, the introduction of environmental rights in Chapter II of the Constitution, entitled "Rights, freedoms and responsibilities of man and citizen", allowed confirming at the highest level the environmental and legal status of man in Ukraine [1].

Despite some criticism of the constitutional provisions related to environmental protection due to their anthropocentric nature, the Basic Law nevertheless reflects the European vision of the model of the relationship between the state, man and nature. However, some scholars believe that the realities of today require the enshrinement in the Constitution of Ukraine of the priority of environmental policy and the need to implement a strategy for sustainable development. In this context, it is appropriate to recall the words of the President of the National Academy of Sciences of Ukraine A. Zahorodny that there is no alternative to sustainable development - and any other path will lead to a global environmental catastrophe. Unfortunately, among the documents aimed at achieving the goals of sustainable development in Ukraine, we can mention only the Presidential Decree of September 30, 2019 №722 / 2019 "On the Sustainable Development Goals of Ukraine until 2030" [2].

In the 90s of the twentieth century. There was a period of strong legislative work with the participation of leading Ukrainian scientists, as a result of which regulations were adopted, most of which are in force today. These include the laws: "On the environment" (1991), "On the nature reserve fund of Ukraine" (1992), "On air protection" (1992), "On wildlife" (1993 (replaced the Law of Ukraine "On Fauna" in 2001), "On Ecological Expertise" (1995) (replaced the Law of Ukraine "On Environmental Impact Assessment" in 2017), as well as the Code of Ukraine on Subsoil 1994), Forest Code (1994), Water Code (1995) and others.

Of course, the implementation of environmental policy depends on a well-balanced strategy, which identifies the main tasks, problems and ways to overcome them. Over the 30th anniversary, many strategies have been adopted that have always been the subject of debate. It should be noted that the Law "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine until 2030" of February 28, 2019 contains a comprehensive and systematic European approach to environmental reform. This strategy confirmed that in order to move closer to a strong modern systemic environmental policy pursued in the EU Member States, Ukraine needs to implement an ecosystem approach to sectoral policies and improve the integrated environmental management system [3].

In June 2021, during a speech at the All-Ukrainian Forum "Ukraine 30. Ecology", President V. Zelenskyy initiated the Green Country project to protect the state's environment and natural resources and outlined its main directions of environmental policy in modern conditions. First, it is a reform of the subsoil industry to combat corruption and illegal mining. In particular, this year the Verkhovna Rada approved in the first reading the draft law № 4187 "On Amendments to Certain Legislative Acts of Ukraine to Support the Development of Domestic Subsoil Use Industries", which should legalize relations in the field of subsoil use. In addition, from 2020, work is underway to develop a new Subsoil Code, which should implement the provisions of Directive № 94 / 22 / EC of 30 May 1994 and other EU legislation implementing the Association Agreement between Ukraine and the EU. It should be noted that the Verkhovna Rada criminalized liability for illegal mining by adopting on July 15, 2021 the Law "On Amendments to Certain Legislative Acts of Ukraine on Strengthening Liability for Illegal Mining" [4].

Secondly, special attention should be paid to the protection and conservation of water resources. In order to implement sustainable water resources management, in June this year the draft Strategy for the Development of Water Policy of Ukraine was published as a framework document that forms a model of the water sector of our country. By signing the Association Agreement with the EU, Ukraine has committed itself to implementing the provisions of the Water Framework Directive (Directive 0002000/60 / EC of 23 October 2000). The transformation of the Chernobyl Exclusion Zone into an attractive tourist destination is an urgent issue of modern environmental policy. In particular, on July 10, 2019, the Decree of the President of Ukraine №512/2019 "On some issues of development of areas affected by radioactive contamination due to the Chernobyl disaster" was adopted, aimed at reviving such areas and creating conditions for using their tourism potential [5].

Every year more and more attention is paid to the global problems of mankind, among which the problem of climate change is prominent. In turn, global warming has contributed to the intensification of climate diplomacy, a participant in which, of course, is Ukraine. Its active position in international action to combat climate change, and participation in the UN Framework Convention on Climate Change (UNFCCC) of 9 May 1992 and the Paris Agreement of 12 December 2015, which replaced the Kyoto Protocol, evidence this.

In recent years, climate policy has become an extremely important component of Ukrainian environmental policy in general. In addition, the fight against climate change is one of the main areas of environmental protection

within the European integration course. Compliance with the Paris Agreement, harmonization of environmental legislation with EU law and participation in the European Green Agreement are the issues on the agenda.

On July 30, 2021, the government approved a new ambitious and achievable climate goal - to reduce greenhouse gas emissions to 35% compared to 1990. On August 4, Ukraine submitted its approved Second Nationally Defined Contribution to the Paris Agreement to the United Nations Framework Convention on Climate Change Secretariat, which it plans to present at the 26th United Nations Framework Convention on Climate Change Conference of the Parties to be held in November 2021 in Glasgow, Scotland. Reducing greenhouse gas emissions and developing an energy-efficient industry is the key to Ukraine's successful European integration course. In the future, our state seeks to reform the system of environmental finance and create the Ukrainian Climate Fund [7].

In March 2021, the draft Order of the Cabinet of Ministers of Ukraine "On Approval of the Strategy for Environmental Security and Adaptation to Climate Change until 2030" was presented, and on August 30 the government began preparing a roadmap for climate change. In addition, on January 1, 2021, the Law "On Principles of Monitoring, Reporting and Verification of Greenhouse Gas Emissions" entered into force, which established a new system of emission control and limitation [8].

Conclusions. We consider the next important areas of Ukrainian environmental policy are the reform of state environmental control, conservation and protection of forests and the fight against industrial pollution. It should be noted that the legislation regulating the issue of environmental control has not been revised for decades. Thus, on July 15, 2021, the draft Law № 3091 "On State Environmental Control" was adopted in the first reading, which should increase the effectiveness of environmental control, which will be a powerful incentive to modernize industry and green production. As for forests, they help to slow down global warming and perform water-regulating, anti-erosion and climate-forming functions.

This, in turn, confirms the need for additional protection. In October 2020, the draft State Forest Management Strategy of Ukraine until 2035 was published, and on July 15, 2021, the draft Law №5650 "On Amendments to Certain Legislative Acts on Forest Conservation" aimed at identifying and preserving independent forests was adopted. Unfortunately, the draft Law №4167 "On Prevention, Reduction and Control of Pollution Arising from Industrial Activities" was rejected and sent for revision, as it is likely that the introduction of new stringent environmental requirements may lead to the closure of many industrial enterprises in Ukraine. According to the Chairman of the Verkhovna Rada Committee on Environmental Policy and Nature Management O. Bondarenko, there are drafts such as № 3091, № 4167 and № 4461 (the draft Law on the Territories of the Emerald Network) of the integration direction that determine the principles of our country's existence for many years to come. The quality of drinking water and air for present and future generations depends on their adoption.

Thus, during the years of independence, Ukraine was able to choose the right path of its development - European integration, which influenced the formation of its environmental policy. Despite sometimes-unsuccessful attempts to reform the environmental sector, the Ukrainian government has taken a powerful step forward in preserving and protecting the environment. Creating a modern legal system of environmental protection that would meet European environmental standards is the main long-term task for Ukraine.

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