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INTERNATIONAL EXPERIENCE IN THE FIELD OF PROVIDING OF ENVIRONMENTAL LEGAL ORDER

The study considers international experience in the field of environmental law enforcement and ways of improving administrative and legal implementation of this area.

It is noted that international legal norms in the field of environmental protection are the basis of international environmental law and order.

International cooperation should be carried out on an equal and mutually beneficial basis. With regard to environmental issues, this means, in particular, the intensification of the trade exchange of environmentally friendly technology and technics, the sale of patents and licenses related to environmental protection, taking into account the experience of industrialized countries, assisting to countries, that are developing, in the choice of such ways and forms of economic development that does not cause a deterioration of the environment.

It is more correct to say that international ecological law-enforcement as a legal phenomenon is formed on the basis of international legal documents, that guides countries, other subjects of international law to ensure a favorable environment and rational using of nature for the benefit of present and future generations.

It was emphasized on the necessity of systematization of environmental legislation and proposed some changes in the current normative legal acts.

Key words: ecological law-enforcement, economic safety, administrative-legal support, ecological legislation, ecological policy.

Сокуренко О.А. МІЖНАРОДНИЙ ДОСВІД У СФЕРІ У ЗАБЕЗПЕЧЕННЯ ЕКОЛОГІЧНОГО ПРАВОПОРЯДКУ

У дослідженні розглядається міжнародний досвід у сфері забезпечення екологічного правопорядку та шляхи вдосконалення його адміністративно-правового забезпечення.

Зазначено, що міжнародно-правові норми у сфері охорони навколишнього середовища є основою міжнародного екологічного правопорядку.

Міжнародна співпраця має здійснюватися на рівноправній і взаємовигідній основі. Стосовно проблем навколишнього середовища це означає, зокрема, активізацію торгового обміну екологічно безпечною технікою і технологією, продаж патентів і ліцензій, пов'язаних з охороною навколишнього середовища, врахування досвіду промислово розвинених країн, надання допомоги державам, що розвиваються, у виборі таких шляхів і форм економічного розвитку, які не викликають погіршення стану навколишнього середовища.

Коректніше сказати, що міжнародний екологічний правопорядок як юридичне явище формується на базі міжнародно-правових документів, які орієнтують держави, інших суб'єктів міжнародного права на забезпечення сприятливого навколишнього середовища та раціональне природокористування на благо теперішнього і майбутніх поколінь.

Наголошено, на необхідності систематизації екологічного законодавства та запропоновано деякі зміни у чинних нормативно правових актах.

Ключові слова: екологічний правопорядок, економічна безпека, адміністративно-правове забезпечення, екологічне законодавство, екологічна політика.

Formulation of the problem. International legal norms in the field of environmental protection are the basis of international environmental law and order. However, norms are implemented in the behavior of subjects of international environmental law.

Even preamble and principles of the Stockholm Declaration of 1972 note that the protection and improvement of the environment, in which a person lives, is one of the most important problems that directly affects the prosperity of peoples and the economic development of the entire world. Also, the declaration reveals the content of the principle of cooperation: "International problems related to the protection and improvement of the environment, should be solved in the spirit of cooperation of all countries, large and small, on an equal basis [1, p. 120].

International cooperation should be carried out on an equal and mutually beneficial basis. With regard to environmental issues, this means, in particular, the intensification of the trade exchange of environmentally friendly technology and techniques, the sale of patents and licenses related to environmental protection, taking into account the experience of industrialized countries, assisting to countries, that are developing, in the choice of such ways and forms of economic development that does not cause a deterioration of the environment.

Analysis of recent research and publications. The research of the problems of environmental law was carried out by such scientists as V.I. Andreytsev, A.I. Forbillov, SB Gavrish, VI Iwakina, S. M. Kravchenko, V.L. Muntyan, N.I. Titova, Yu.S. Shemshuchenko et al.

Formation of the purposes of the article. The purpose of the paper is to study the international legal norms of environmental protection as the basis of international environmental law and order. However, norms are implemented in the behavior of subjects of international environmental law.

Presentation of the main material. Depending on specific problems, environmental cooperation can be attributed to the sphere of political, economic, scientific-technical or legal cooperation of states.

If we take into account an overview of the tendencies of European countries' environmental policies in the first quarter of the XXI century, they indicate a dramatic evolution of public opinion on the importance of the natural environment as the primary source of economic and social development [2, p. 198].

We can better see this if we look at the evolution of the ecological regulatory framework in Europe, one of the key elements of which, in addition to the directives, is the ecological action plans of the European Union (EU). The first ecological action plan of the EU was adopted in 1973, immediately after the conference in Stockholm. It was aimed at achieving limited environmental objectives, namely on: prevention and reduction, where possible harmful effects of pollution on the environment; promotion of ecologically sound management, stopping of exhausting exploitation of natural resources and violation of ecological balance; improvement of living conditions of people through improvement of the ecological state of the environment; integration of environmental factors into urban planning and land use; development of mechanisms for solving environmental problems with the smallest economic and social costs.

Based on the above goals and recommendations, conceptual foundations for practical activity for 20 years have been developed. A large-scale process of creating ecological public and non-governmental organizations, ministries of ecology has begun.

The main regulatory instruments for environmental policy began to be implemented and applied, with the help of which three main directions of activity were provided: the scientific substantiation of environmental programs and measures through the accumulation, analysis and systematization of environmental monitoring data; formulation of policies and strategies in a complex with the development of concrete measures; in particular, the development and implementation of environmental standards and the practical application of the «polluter pays» principle through fines for environmental pollution; the formation and implementation of relevant state institutions. In the 80 years of the 20th century environmental policy began to be filled with real content [2, p. 199].

At present, the wide and consistent implementation of such important requirements has started at the national and international levels, such as: integration of environmental and sectoral policies; compulsory application of Environmental Impact Assessment Procedures (EIAP) at all levels of using; public participation in such procedures; implementation of environmentally friendly technologies for preventing harmful transboundary environmental impacts through international cooperation.

It is logical that in the 80's of the 20th century such instruments of ecological policy began to come to the fore: payments for the using of natural resources and pollution of the environment; subsidies for the introduction of environmentally friendly and environment-friendly technologies; environmental insurance.

Since 1992, the countries has officially introduced the term «sustainable development » and seeked to build their lives in accordance with the principles enshrined in the Rio Declaration of 1992. The Rio Declaration on Environment and Development of 1992 states: caring for a person is a leading player in sustainable development.

The next important step in the implementation of the concept of sustainable development was the The World Summit is Sustainable Development in Johannesburg of 2002 [3, p.135]. The concept of liberalism is now virtually indistinguishable in the world market. The process of finding the golden mean between the application of the concepts of liberalism and sustainable development continues. It will be long, but productive, since the ecological component of the concept of sustainable development does not in any way imply additional obstacles to international trade (Principle 12 of

the Rio Declaration of 1992). It is only about the necessity of maximally taking into account environmental requirements in the course of economic activity, recognition of environmental problems of the general and the establishment of cooperation between the states in their solution.

With regard to the possible interpretation of the concept of sustainable development for providing comprehensive economic assistance to developing countries from developed countries, as their additional obligation, it do not find confirmation in life. The duty of developed countries to assist developing countries exists to the extent that they voluntarily undertake such commitments.

Consequently, on the one hand, after the 1992 Rio Conference, countries recognized the present danger to the future of mankind and expressed their readiness to agree on solving common problems and even on the partial delegation of their sovereign rights. However, at the same time, there are other trends. At the special session of the UN General Assembly in June 1997, devoted to the fifth anniversary of the UN Conference on Environment and Development, it was determined that the economic, social, technical development of society on Earth continues with a minus sign in relation to the environment, in essence leads to an ecological catastrophe [3, p. 145]. What does not allow states to solve these global issues that prevented the achievement of common goals? To find answers to these questions, one should consider the legal aspects of the problem.

In general, sustainable development of society is possible only in the world order, which requires a comprehensive security system that includes military, political, economic, environmental and legal security. At the same time, if it is a question of military, political and economic security that has long been known, its international legal principles are well known, then environmental safety is mostly a slogan.

It is more correct to say that international ecological law-enforcement as a legal phenomenon is formed on the basis of international legal documents orienting the state, other subjects of international law to ensure a favorable environment and rational nature using for the benefit of present and future generations. At the same time, it is important to understand that this problem can not be solved within the same region for a comprehensive approach, the achievement of a favorable environment for the sustainable development of all humanity. In this sense, at present, the question of the presence in developed countries of the obligation to provide effective assistance to developing countries is increasingly being raised. This duty is enshrined in many documents related to the field of the environment.

With regard to environmental human rights, at the present stage of the greatest progress in monitoring their provision at the international level, the European Court of Human Rights has come to the conclusion that, in the absence of a special article, it accepts and examines complaints on environmental issues, guided by Art. 8. The next important step in protecting environmental human rights within Europe was the order of Art. 37 of the European Union Charter of Fundamental Rights of 2000, as well as the adoption in 1998 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. However, in general, there are problems applying the Charter, assessing the legal force of its provisions, as well as the fact that in Art. 37 are not fixed specific environmental rights. The absence of a special article on environmental rights can be found in the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 [5, p. 67].

Consequently, in the context of sustainable development, the problem of ensuring international environmental legal order is important, because it is defined as a system of legal relations, which are drawn up in accordance with the norms of international law, designed to promote the rational use of natural resources and the provision of a favorable environment for the life of present and future generations. International ecological law-enforcement as an integral structure has its basic principles and principles.

In our opinion, the most important sources of international environmental law are the UN Declaration on Environment, adopted in 1972 at the UN World Conference on Environmental Issues (Stockholm, Sweden); World Conservation Strategy, adopted by IUCN (1980), "Declaration of Rio", which was approved by the International Conference on Environment and Development in 1992. (Rio de Janeiro, Brazil) [6].

The specialized organizations called the United Nations Environment Program (UNEP) and other United Nations bodies (UNESCO, FAO, WHO, IAEA) play a significant role in implementing the provisions of these instruments and other international conventions.

The solution of the current environmental problems in Ukraine is possible only in the context of wide and active international cooperation of all countries in this area. This is primarily due to the following circumstances: the global nature of environmental problems; transboundary nature of environmental pollution; the international obligations of Ukraine regarding the protection of the natural environment; the necessity for an international exchange of experience and technology, the possibility of attracting foreign investment [6].

Ukraine is a member of more than 20 international conventions and bilateral agreements related to the protection of the environment. Ukraine's international commitments to the natural environment, the use of natural resources and the provision of environmental safety are derived from the provisions already ratified, as well as those under consideration of conventions and agreements.

Ukraine's compliance with the obligations arising from the above-mentioned multilateral agreements requires bringing domestic legislation in line with international law and taking into account existing international practice when

drafting new legislative acts.

Along with the fulfillment of Ukraine's obligations stemming from multilateral agreements in the field of environmental protection and environmental safety, in the long run, it is important to further expand international cooperation in the following areas:

- cooperation with international organizations of the UN system in the field of environmental protection (UNEP - United Nations Environment Program, UNECE - UN Economic Commission for Europe, UNDP - United Nations Development Program, IAEA - UN International Nuclear Energy Agency, FAO - Food Organization Agriculture, Center for Human Settlements, Commission on Sustainable Development, Global Environment Facility, etc.);
- participation in regional environmental events;
- participation in international programs for the elimination of the consequences of the Chernobyl accident (problems of waste, transport of air and water pollution, etc.).

In general, in our opinion, the environmental policy of Ukraine is the basis for creating prerequisites for sustainable development of the country.

The draft Strategy for National Environmental Policy for the period up to 2020, developed in 2008, is based on a complex of administrative, economic, social and environmental measures. At the same time, the concept of the national strategy of environmental policy requires taking into account modern international principles of coexistence of mankind and the environment, based on world experience, perspectives and contradictions of the implementation of environmental policy by governments of world powers, international organizations, and current trends in overcoming environmental threats.

The first steps in creating mechanisms for protecting against environmental threats at the level of international cooperation have already been made. Under the auspices of the United Nations, a number of measures have been taken, among which:

- in the 1992 UN Conference on Environment and Development in Rio de Janeiro, the "Agenda for the 21st Century" was adopted;
- The Kyoto Protocol adopted in 1997 at the Conference of the Parties to the United Nations Framework Convention on Climate Change, which stipulates the commitment of developed industrialized countries to limit the levels of greenhouse gas emissions in order to avoid a dangerous violation of the climate system; [7, p. 37];
- the outcome of the Summit in Johannesburg in 2002 was the adoption of "Declaration on Sustainable Development". It identifies key tasks for strengthening the foundations of sustainable development, its economic, social and environmental components. One of the ways to overcome global environmental safety problems is the necessity to change the pattern of consumption and production, ensuring the protection and rational using of the natural resource base [8].

The evolution of the European Union's environmental policy has formed clear approaches to environmental issues, has contributed to the establishment of the EU as an influential subject of international environmental policy. Between 1973 and 2000, five European Environmental Action Programs were introduced. The Sixth Action Program (2001-2010) was adopted on the eve of the large-scale EU enlargement. The program provides: coordination of environmental measures not only of Member States and candidate countries and other European countries, but also international environmental organizations; development and adoption of seven thematic strategies related to air pollution, protection of the marine environment, sustainable using of resources, prevention of waste generation and disposal, sustainable using of pesticides, soil protection, and protection of the urban environment [11, p. 156].

The main members in initiating and implementing the EU environmental policy are:

- The European Commission - the main participant in the process of policy development in the field of environmental protection. Since 1992, non-governmental organizations have gained significant influence in environmental policy.
- Council of the EU. Ecological ministers, who have greater freedom of action at EU level, often manage to adopt legislative acts that would hardly be supported by national governments.
- The European Parliament, unlike many parliaments of the Member States, has a much greater impact on the Community's environmental policy.
- The European Environment Agency was created in accordance with the EU Council of Ministers resolution of May 1990 as an independent body with the objective of protecting and improving the environment in accordance with the provisions of the Treaty and the Community Environmental Action Programs.
- The EU Court plays an important role in deciding which environmental measures are permissible in the context of a single internal market, and which potential claimants have the right to challenge environmental decisions. The EU Court upheld EU environmental protection policy even in the absence of a proper legal base in Community treaties over a period of time [10].

The modern environmental initiatives of the European Union testify to the EU's readiness to assume leadership in combating global climate changing.

From the beginning of the 21st century, European climate change policies focused on harm reduction measures

and attempts to persuade international partners to sign the Kyoto Protocol. However, global climate challenges have prompted EU politicians to adopt in June 2007 the first program document - the Green Paper "Adapting to Climate Change in Europe - Options for EU Action" [11, p. 245]. The European Commission document states that in order to address global warming, steps must be taken to adapt to changing climatic conditions, along with measures to reduce greenhouse gas emissions. The Green Paper gives an exact definition of the strategy of adaptation as a set of measures to combat the effects of climate change - an increase in temperature, a decrease in water resources in case of their occurrence and prediction of possible changes in the future. Adaptation should include national and regional strategies, adaptation measures can be of a preventive or reactive nature.

Taking into account the global nature of environmental problems, the establishment and implementation of a national environmental strategy and environmental law enforcement are impossible without using international experience. At the same time, attempts to overcome global ecological crises have shaped the approaches of the world community in which the implementation of any specialized programs is activated with the participation of national governments. Therefore, Ukraine today has a unique opportunity to highlight its vision of global environmental security, become an active participant in the formation of international strategies in this area. In particular, the need to publicly publish at the international level its position on rehabilitation and adaptation of affected Chernobyl territories on the basis of biological, medical, socio-psychological data of profile departments and ministries with the view of further coordination of efforts of our state and the international community in solving the ecological perspective of these lands are very relevant.

An indication of contemporary world environmental strategies is the priority of the problem of global warming. Among the measures to reduce the negative impact of emissions into the atmosphere, the emission trading system is considered to be a cost-effective system.

The commercialization of the idea of combating global warming carries risks in the form, first, of the probability of the concentration of environmentally harmful production on the territory of countries that save their emissions, and secondly, to lead to one-dimensional solution of environmental problems without taking into account other constituent threats the environment - soil contamination by heavy metals, water areas of the oceans and seas with waste, etc. Therefore, Ukraine may act as an initiator of additional and voluntary restrictions on harmful emissions in addition to those already stipulated by international agreements.

Conclusions. In our opinion, the national ecological strategy at the present stage should create the preconditions for solving a complex of problems in the field of the environment. Strategic planning of environmental law policy should be based on the principles: political priority of solving environmental safety issues; integration of the ecological component in sectoral policies - economic, social; environmental responsibility of the subjects of the industrial sphere; balancing and mutually supplemented national and regional environmental priorities; scientific and expert substantiation of means for effective overcoming of environmental threats.

Also, in our opinion, the draft National Ecological Policy Strategy of Ukraine until 2020 should be supplemented: an analysis of the possibilities of implementing environmentally-friendly technologies in industrial production; forecasting of economic efficiency of ecologically pure agricultural production; conclusions on creation of a favorable investment climate for eco-innovation development; in part as regards the scientific support of the national environmental policy to submit expert assessments of scientific developments of domestic scientists to consider the prospects of creating an eco-innovation market, the national base of scientific inventions, technologies, projects, programs.

Creation of the concept of international environmental safety is a logical response of humanity to aggravating the threats of the global ecological crisis. The implementation of international environmental safety consists in the creation of a system of state-legal measures aimed at limiting the negative human impact on the environment, and, in the future, on achieving a balance between the use of human resources and the restoration of natural resources. The achievement of harmonious coexistence of man and nature - it is the ultimate goal of international environmental safety. The construction of the system of international ecological security combines elements of regulation of the using of natural resources, economic development, socio-cultural progress of humanity and many other factors.

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