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СТАНДАРТИЗАЦІЯ І НОРМУВАННЯ ЯК НАПРЯМОК ДІЯЛЬНОСТІ ОРГАНІВ ПУБЛІЧНОЇ АДМІНІСТРАЦІЇ У СФЕРІ ОХОРОНИ ЗЕМЕЛЬ

Автором статті зазначено, що сьогодні не створена єдина система нормативно-правових актів, яка б чітко визначала повноваження органів публічної адміністрації щодо здійснення їх діяльності у сфері стандартизації та нормування сфери охорони земель. Також, вказано, що в законодавстві України дане питання розкрито поверхнево та хаотично.

Висвітлено особливості нормування і стандартизації як напрямку діяльності органів публічної адміністрації у сфері охорони земель. Для цього вивчено сутність стандартизації та нормування у сфері охорони земель, проаналізовано нормативне підґрунтя здійснення органами публічної адміністрації у сфері охорони земель функцій щодо стандартизації та нормування та запропоновано шляхи вдосконалення нормування і стандартизації як напрямку діяльності органів публічної адміністрації у сфері охорони земель.

Зроблено висновок, що стандартизація та нормування є різновидами правових форм охорони земель від забруднення та псування, оскільки на державному рівні закріплено перелік стандартів та нормативів у сфері охорони земель. Відмічено, що суб'єктами, які безпосередньо розробляють та затверджують такі стандарти та нормативи є саме органи публічної адміністрації.

Враховано, що нормування, особливо у сфері охорони земель, може розглядатися у широкому й вузькому значенні. У широкому значенні нормування – це встановлення землевпорядних та екологічних нормативів. Але у межах даної статті нормування вживається у вузькому значенні як окрема функція органів публічної адміністрації у сфері охорони земель. Наголошено на тому, що так нормування і стандартизація у сфері охорони земель розглядаються у Земельному кодексі України (2001 року) та Законі України та «Про охорону земель».

Зроблено висновок, що із функцією нормування у сфері охорони земель тісно зв'язана функція стандартизації, яка являє собою технічне регулювання сталого землекористування та природоохоронних заходів шляхом прийняття спеціальних нормативно-технічних документів.

Акцентовано увагу на тому, що в ч. 2 ст. 29 Закону України «Про охорону земель» мета стандартизації у сфері охорони земель окреслена дуже вузько, адже законодавець визначає лише забруднення та псування як передумову необхідності здійснення такої охорони.

Також, зроблено висновок, що сьогодні існує розгалужена система органів публічної адміністрації, які мають право встановлювати стандарти та нормативи у сфері охорони земель та як наслідок хаотичність та відсутність систематизації законодавства у сфері охорони земель.

Ключові слова: стандартизація у сфері охорони земель, нормування у сфері охорони земель, органи публічної адміністрації, охорона земель, адміністративна реформа.

Chorna M. STANDARDIZATION AND NORMALIZATION AS A DIRECTION OF ACTIVITY OF PUBLIC ADMINISTRATION BODIES IN THE FIELD OF LAND PROTECTION

The author of the article stated that today there is no unified system of legal acts that would clearly define the powers of public administration bodies to carry out their activities in the field of standardization and regulation of the field of land protection. Also, it is stated that in the legislation of Ukraine this issue is revealed superficially and chaotically.

The features of normalization and standardization as a direction of activity of public administration bodies in the field of land protection are highlighted. For this purpose, the nature of standardization and normalization in the field of land protection

was studied, the normative basis for the exercise of functions of standardization and normalization by the public administration bodies in the field of land protection was analyzed, and ways of improving the normalization and standardization as a direction of activity of public administration bodies in the field of protection were proposed.

It is concluded that standardization and normalization are varieties of legal forms of land protection against pollution and damage, since the list of standards and norms in the field of land protection is fixed at the state level. It is noted that the entities that directly develop and approve such standards and regulations are the public administration bodies themselves.

It is taken into account that regulation, especially in the field of land protection, can be considered in a broad and narrow sense. In the broad sense of regulation, it is the setting of land and environmental standards. But within the scope of this article, rationing is used narrowly as a separate function of public administration bodies in the field of land protection. It is emphasized that such normalization and standardization in the field of land protection are considered in the Land Code of Ukraine (2001) and the Law of Ukraine «About Land Protection».

It is concluded that the standardization function in the field of land protection is closely related to the standardization function, which is the technical regulation of sustainable land use and environmental measures by adopting special regulatory and technical documents.

Attention is drawn to the fact that in Part 2 of Art. 29 of the Law of Ukraine «About Land Protection» the purpose of standardization in the field of land protection is defined very narrowly, because the legislator defines only pollution and damage as a prerequisite for the need for such protection.

Also, it is concluded that today there is an extensive system of public administration bodies, which have the right to set standards and norms in the field of land protection and as a consequence of the chaotic nature and lack of systematization of legislation in the field of land protection.

Key words: standardization in the field of land protection, normalization in the field of land protection, public administration bodies, land protection, administrative reform.

Formulation of the problem. Normalization and standardization in the field of land protection is a function of public administration bodies, which consists in adopting and ensuring the use of land relations by the subjects of land quality, soil fertility and allowable anthropogenic loading and economic development of land.

The review, approval and procedure of application of standards and norms in the field of land protection shall be carried out by public administration bodies within the limits of their competence and powers.

During the years of independence, Ukraine has not yet adopted national standards or regulations in the field of land protection, but the legislation does not exclude the possibility of applying standards in this field, which were adopted by the authorities of the former USSR, if they do not contradict the legislation of Ukraine.

Most of the standards and regulations in the field of land protection were developed on the basis of scientific achievements of the period of 60-70-ies of XX century. Therefore, they either practically lost their validity or require significant changes and additions. Unfortunately, there are practically no standards that would set the standards for the optimal ratio of land, land classification and a set of qualitative and quantitative indicators, parameters governing the development and implementation of documentation on land management, etc.

The concept of the Unified system of legal acts in the field of the state land cadastre, which was approved by the Decree of the State Committee of Ukraine for Land Resources of December 12, 2008 No. 610 [1] (hereinafter referred to as the ESNPADZC concept), was developed in accordance with the Land Code of Ukraine [2] and Of the Law of Ukraine «About Standardization» [3] to regulate issues related, in particular, to the control of public administration bodies in the field of land protection.

Also, in accordance with the concept of the ESNPADZC, a unified system of legal acts in the field of state land cadastre should, in particular, take into account the main tasks of central executive authorities on land resources, environmental protection in ensuring the implementation of a common scientific and technical policy in this field.

At present, unfortunately, there is no unified system of legal acts that would clearly define the powers of public administration bodies to carry out their activities in the field of standardization and regulation of the field of land protection. However, in the legislation of Ukraine this issue is revealed superficially and chaotic.

The concept of the system of standardization and regulation in the field of land protection was developed in connection with the aggravation of the environmental and resource situation in Ukraine, the need to solve urgent problems of protection and rational use of land, as well as to create a mechanism for the implementation of certain articles of the Land Code of Ukraine, Law of Ukraine «About land protection»[4], the Law of Ukraine «About Standardization» [3], the Law of Ukraine «About State Control of Land Use and Protection» [5] and the Law of Ukraine «About Environmental Audit» [6].

This concept set out tasks that primarily concern the activities of public administration bodies, but at present, not all of them have been implemented.

Analysis of recent research and publications. The work of leading scientists such as A.M. Miroshnichenko [7], L.G. Saprykin [8], T.G. Overkivskaya [9], and A.M. Tretyak [10]. At the same time, the question of the effective activity of the public administrative bodies in forming the sectoral system of standardization and regulation in the field of land protection remains open.

In his dissertation research A.M. Miroshnichenko states that the sign of normalization is to recognize that it is a type of volitional activity of certain entities, which can be subject to legal regulation, by establishing quantitative and qualitative indicators (norms) of the properties of certain objects [7].

In agreement with the opinion of the researcher, it should be noted that it is precisely the activity of the

public administration bodies that determines the coverage and resolution of socially significant issues in the field of land protection, in particular, through the development, establishment and implementation of appropriate standards and regulations.

The purpose of the article is to reveal the features of normalization and standardization as a direction of activity of public administration bodies in the field of land protection. For this purpose it is planned to find out the essence of standardization and normalization in the field of land protection, to analyze the normative basis for the implementation of functions of standardization and normalization by the public administration bodies in the field of land protection, and to propose ways of improving the normalization and standardization as a direction of activity of public administration bodies in the field of land protection.

Outline of the main research material. First of all, it should be noted that standardization and normalization are varieties of legal forms of land protection against pollution and damage, since the list of standards and norms in the field of land protection is fixed at the state level. The entities that directly develop and approve such standards and regulations are the public administration bodies themselves.

Rationing, especially in the field of land protection, can be considered broadly and narrowly. In the broad sense of regulation, it is the setting of land and environmental standards. But within the scope of this article, we are interested in narrowing it down as a separate function of public administration bodies in the field of land protection. This is exactly how land protection and standardization are standardized in the Land Code of Ukraine (2001) [2] and the Law of Ukraine «About Land Protection» [4].

As a function of managing regulation in the field of land protection, it means limiting the negative impact on land resources and the environment by setting mandatory environmental, technological and other standards for such impact.

This means that some land protection regulations may only be contained in statutory instruments that are binding on the parties and cannot be regulated in acts of advisory nature, such as, for example, State Standards of Ukraine (DSTU).

The standardization function in the field of land protection is closely linked to the standardization function, which is the technical regulation of sustainable land use and environmental protection through the adoption of specific regulatory documents.

In order to fulfill the objectives of the study, let us consider the essence of standardization and regulation in the field of land protection.

According to Art. 165 of the Land Code of Ukraine and Art. 28 of the Law of Ukraine «About Land Protection» standardization and normalization in the field of land protection is to ensure the environmental and sanitary and hygienic safety of citizens by defining the requirements for the quality of land, soil fertility and acceptable anthropogenic load and economic development of land. Normative documents for standardization in the field of land protection and reproduction of soil fertility are established by the Cabinet of Ministers of Ukraine [2; 4].

Also, regulatory documents in the field of land protection are developed, approved, verified and reviewed in accordance with the procedure established by the Law of Ukraine «About Standardization» of May 17, 2001 [3]. Taking into account the provisions of the Law of Ukraine «About Standardization», namely Art. 1, that standardization is the activity of establishing provisions for general and multiple use in a particular field, and part 2 of Art. 29 of the Law of Ukraine «About Land Protection», standardization in the field of land protection against pollution and damage should be considered as an activity for the development, approval, review and revision of normative documents (standards), which set mandatory requirements for activities or objects that to a certain extent affect or may affect the quality of land and the requirements for the implementation of separate measures for the protection of land from pollution and damage [3; 4].

In our opinion, in Part 2 of Art. 29 of the Law of Ukraine «About Land Protection» the purpose of standardization in the field of land protection is defined very narrowly, because the legislator defines only pollution and damage as a prerequisite for the need for such protection. It is advisable to further broaden and summarize the goal of standardization in the field of land protection, outlining part 2 of Article 29 of the Law of Ukraine «About Land Protection» in the following wording: «standardization in the field of land protection against violations of environmental legislation, improper use of land and other activities aimed at violations of the rules of the legislation in the field of land protection should be considered as the activity of public administration bodies in the development, approval, review and revision of normative documents (standards), which set the obligatory explicit requirements for activities or objects that in some way affect or may affect the quality of land, as well as requirements for the implementation of separate measures for the protection of land from pollution, damage, violation of environmental legislation, improper use of land and other activities aimed at violation of legislation in the field of land protection.»

Supporting the position of the legislator, we note that in Art. 31 of the Law of Ukraine «About Environmental Protection» defines the normalization is carried out in order to establish a set of mandatory rules, rules, requirements for environmental protection, use of natural resources and environmental protection [11].

The relationship between land protection and standardization norms is that the norms may be contained in mandatory regulatory documents (normative acts of the Cabinet of Ministers of Ukraine and central executive authorities, national rules). However, standardization in the field of land protection involves not only the

establishment of standards in regulatory and technical documents, but also the technical regulation of the quality of documentation on land and environmental measures, in particular, through the establishment of recommended standards (DSTU, industry standards) [10, p.154]. Therefore, a radical change in economic relations requires the creation of appropriate legal bases, a clear division of powers between public administration bodies and the intensification of their work to eliminate deficiencies and gaps in the regulatory fixing of standards and norms in the field of land protection.

In our view, public administration bodies in the field of land protection in their activities should be guided by the international ISO/IEC standard, which defines standardization as an activity aimed at achieving the optimum degree of streamlining in a particular area by establishing common and reusable provisions for actually existing or perspective tasks. First of all, standardization is an activity that is further expressed through the fixing of certain standards in regulatory acts [10, 87].

Note that according to Art. 6 of the Law of Ukraine «About Standardization» the subjects of standardization are: the central executive body in the field of standardization; standardization council; standardization technical committees; other entities involved in standardization [3]. The latter include the State Geocadastr of Ukraine and the Ministry of Energy and Environmental Protection of Ukraine, which respectively develop to approve standards in the field of land protection. As for land protection standards, their establishment is within the competence of the Cabinet of Ministers of Ukraine (Article 165 of the Land Code of Ukraine) [2]. However, the standards of maximum permissible concentrations of dangerous substances in soils, as well as the list of these substances are approved by specially authorized bodies of executive power in the field of health and sanitary surveillance, ecology and natural resources (Article 167 of the Land Code of Ukraine) [2].

So, today there is an extensive system of public administration bodies, which have the right to set standards and norms in the field of land protection and as a consequence of the chaotic nature and lack of systematization of legislation in the field of land protection.

Also, the powers and functions of standardization entities are established by the legislation, regulations and statutes of these entities, but must be regulated by the adoption of appropriate laws.

Let us examine in more detail the powers of the central executive body, which ensures the formation of state policy in the field of standardization. In particular, according to Art. 17 of the Law of Ukraine " «About standardization» the central body of executive power, which ensures the formation of state policy in the field of standardization, represents the interests of Ukraine in international standardization organizations, takes measures to adapt the legislation of Ukraine in the field of standardization to the legislation of the European Union, cooperates in this field relevant authorities of other countries, make decisions on joining international (regional) standardization systems, conclude cooperation agreements and implement standardization work [3].

International legal activity of public administration bodies in the field of land protection is one of the main, as international institutions play an important role in national institutions. For example, alongside national standardization institutes, there is similar activity at international level under the International Standard Organization. It is important to note that in 1976 the International Standard Organization replaced the International Federation of National Standards Associations.

Thus, standards development, including in the field of land protection, involves the European Union's standardization institutions [8, p. 22-23., p. 165].

In our opinion, it is necessary to approve a nationwide program of land use and protection, detailing the responsibilities and tasks among public administration bodies in order to systematize regulatory acts in the field of land protection, updating and adapting to international standards obsolete standards and norms as one of the main directions for ensuring the implementation of this program.

We also support the opinion of the scientist T.G. Overkovskaya, who believes that the solution of problems in the field of protection of land from pollution and damage will be facilitated by a system of normative and technical documents, which will contain standards, namely: organizational and methodological, which determine the basic general provisions land use and protection; technological standards of loads in the process of agricultural land use; indicators of land degradation and soil, which are established for each category of land, as well as the norms of permissible degradation, the maximum permissible level of soil pollution [9, p. 114].

The main role in activating the development of the relevant standards is played by the Technical Committee (TC) 142 «Soil Science», created by the Order of the State Standard of Ukraine from September 26, 2001 No. 480 in accordance with Art. 9 of the Law of Ukraine «On Standardization» (maintenance of the TC 142 secretariat was entrusted to the Sokolovsky IGA). In addition to developing soil quality standards, TC 142 also reviews the existing Soviet-era standards and repeals the expired NDs.

Unfortunately, financing of works on creation of a unified state system of standards, norms and rules in the field of land protection in Ukraine has a persistent short-term character.

Also, one of the main reasons for the failure to comply with the requirements of the land legislation regarding the creation of a standardization system in the field of land protection is the lack of a profile Technical Committee, without which it is impossible to carry out the procedure of development, adoption, change and repeal of interstate, state and sectoral standards, rules and regulations, as well as achieving it. productive functioning.

A positive shift in the way of creating a specialized TC is the experience of functioning of the State Committee for Standardization Subcommittees (hereinafter referred to as PC), created in 2008: namely, PC «Land

Protection» within the TC 82 «Environmental Protection of Ukraine», which began to carry out standardization in the field of land protection and land management, and PC «Standardization of terminology and definitions in the field of land relations» within the TC 19 «Scientific and technical terminology», which also began to standardize terminology and definitions in the relevant field.

However, given the positive dynamics of standardization in the field of land protection, it should be noted that the sphere of activity of newly created PCs only partially covers the objects of standardization in the field of land protection, and therefore, today, it is necessary to create a management on the basis of the State Geocadastre of Ukraine, which will be empowered with the powers in the field of standards regulation of land protection in accordance with the legislation of Ukraine and regulation on standardization management in the field of land protection. In addition, in its structure the State Geocadastre of Ukraine has an extensive system of territorial offices and institutes of land management, cooperates closely with central executive bodies and research institutions, and has the opportunity to involve in work on standardization leading scientists and specialists.

In our opinion, standardization and regulation in the field of land protection against pollution and damage should be considered as the activity of public administration bodies in establishing certain qualitative indicators of the state of land, methods and means of determining, evaluating the effective and environmentally sound use of land.

Conclusions. Therefore, the main priority areas of administrative reform in Ukraine are a clearly established division of powers between public administration bodies and the introduction of necessary adjustments in the legal acts regulating the standardization and normalization in the field of land protection, adapting them to changes that have occurred in economic and political life. society, the replacement of old, outdated regulations with new ones and their computerization.

Also, we agree with the opinion of the scientist Sobol E. Y., who believes that administrative and legal reform in Ukraine is being implemented, in particular, in the directions of creating a new legal framework that will regulate the activities of public administration; formation of new institutes, organizational structures and instruments of public administration, as well as staffing of the new system of public administration; strengthening and formation of new financial and economic foundations of functioning of public administration [12, p.88].

Considering the current socio-economic situation in Ukraine and in order to realize the main priority areas of compliance with the legislation in the field of land protection, it is necessary to:

to instruct the newly created department for standardization and normalization of the field of land protection of the State GeoCadastrе of Ukraine to carry out systematization of the current normative base in the field of land protection, to determine compliance of the normative documents with the current legislation of Ukraine and international norms and to carry out the necessary set of works on adjusting and updating the normative documents;

to instruct the State Geocadastre of Ukraine to develop and the Cabinet of Ministers of Ukraine to approve the program of standardization and normalization in the field of land protection with the involvement of national and international experts and public organizations, in which to determine the public administration bodies, which will be responsible for implementing the program directions and determine, in particular, the ways, interference with land relations.

In our opinion, it is important that the introduced system of standardization and normalization in the field of land protection take into account the main tasks of the central executive authorities on land protection and ensure the implementation of a uniform approach of scientific and technical policy in this field.

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ЗАГАЛЬНА ХАРАКТЕРИСТИКА МІЖНАРОДНОГО СПІВРОБІТНИЦТВА В ГАЛУЗІ СУДОВОЇ ЕКСПЕРТИЗИ: АДМІНІСТРАТИВНО-ПРАВОВИЙ АСПЕКТ

Дослідження присвячено адміністративно-правовим аспектам спрямованим на забезпечення міжнародного співробітництва в галузі судової експертизи. У результаті аналізу нормативних документів і літератури, обґрунтовано актуальність розвитку судово-експертної справи в Україні та розглянута роль міжнародного співробітництва в її розбудові.

Базуючись на ретельному вивченні чинної нормативно-правової бази, що є підґрунтям здійснення судової експертизи в Україні, та спираючись на аналіз змісту законопроектів, які пропонувались для розбудови сфери судової експертизи, в дослідженні освітлені важливі проблеми галузі, а також погляди на шляхи їх вирішення. Увага приділена принципу незалежності судових експертиз та його значенню для забезпечення максимального захисту прав і свобод громадян. Охарактеризовано сутність впливу, який забезпечує поєднання державних та недержавних форм суб'єктів експертної діяльності, на стан якості судово-експертних послуг в Україні.

Зроблено висновок про доцільність розвитку міжнародного співробітництва та висвітлено нормативно-правову основу для розбудови і поглиблення співпраці. А також досліджена структура органів і установ, яка реалізує судово-експертну діяльність в Україні, порівняна їх побудова із подібними організаціями у світовій практиці. Проаналізовано та