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STANDARDS IN THE SYSTEM OF ENVIRONMENTAL LAW SOURCES

The paper entitled "Standards in the system of environmental law sources" deals with study of the environmental standards as part of the system of sources of environmental law in Ukraine. The author is B. Kovalenko. The article describes several definitions of systems of sources of law and sources of ecological law. Special attention is paid to consideration of features of environmental standards as part of system of sources of ecological law. Such features of sources of ecological law as international legal orientation, binding implementation, normativity have been researched. The legal system is considered by the author in terms of natural law understanding. The essential point of the article is researched the influence of environmental standards on the Ukrainian legislation. It is proved that the system of national environmental standards constantly updated and gradually approaching European Union standards. The result is changing environmental legislation. Although environmental standards do not make changes to certain laws of Ukraine, but the continuous improvement of national standards and implement European Union sets the direction for the formation of general environmental legislation of Ukraine. The conclusion is made to propose author's definition of standards as an important element of sources of environmental law in Ukraine, while focusing attention on their main features.

Keywords: understanding the law, sources of law, environmental law sources, regulatory and technical document, standard, environmental standard features of environmental law sources.

If one delves into the essence of the concept of standards and explores the position of the legislator, one will see that the importance of standards as sources of environmental law is currently undervalued. In this article based on the works of legal scholars and ecologists, the provisions of the legislation we researched the standards as an integral part of the system of environmental law sources of Ukraine.

The research of scientific and theoretical aspects of the system of environmental law sources was carried out by such scholars as: V.I. Andreitsev, N.V. Barbashova, N.K. Blinova, L.O. Bondar, O.V. Braion, M.M. Brynchuk, A.P. Voitsytskyi, P.O. Hvozdyk, A.P. Hetman, I. Holinka, I.I. Karakash, M.O. Klymenko, T.V. Kozulia, M.V. Krasnova, O.I. Krassov, V.M. Ladyzhenskyi, N.R. Malysheva, A.M. Miroshnychenko, N.V. Omelchenko, S.P. Palamarchuk, M. Petrovska, I.A. Prokopets, N. Ridei, N.H. Salukhina, K.M. Sytnyk, P.M. Skrypchuk, V.V. Tarasova, M.I. Shapoval, V.Ya. Shevchuk, O.M. Yazvinska, etc.

In recent years, the issue of the place of standards in the system of environmental law sources was investigated by the following scientists: V. I. Kurzova, A. I. Berlach, V. I. Kurylo¹. They viewed the standards as "soft law", i.e., as norms that are not binding. Professor V.I. Andreitsev also refers the standards to the unit of the system of environmental law sources in some of his works².

The review of scientific literature in this field helps us to understand that in today's Ukraine the standards as environmental law sources get very little attention when in the last decades there is an active adaptation of the national legislation of both Ukraine and other countries to international standards in the field of environment (ISO 9000, ISO 14000).

In order to explore objectively the place and importance of standards among many other environmental law sources, one should first consider the concept of the system of environmental law sources, the components of which are the terms "system" and "legal system".

¹ Курило, В.І. (2015). *Екологічне право України. Загальна частина*. Київ: Алерта, 22.

² Андрейцев, В.І. (1996). *Екологічне право: Курс лекцій в схемах*. Київ: Вентурі, 145.

Explanatory dictionaries give the following definition of the term "system": a set of interrelated elements that form a coherent whole, interact with the environment and each other, and have a goal¹; a procedure determined by correct, systematic arrangement and mutual relationships of the parts of something; a totality of any elements, units, parts, joined by a common sign, designation²; an arrangement, the structure of which is the unity of appropriately located and functional pieces that are in relationship³.

On the basis of the above interpretations, we can distinguish the features that are common to different systems: the presence of structural elements; the pivotal connection between the elements; the formation of holistic system as a result of interrelation and interaction of its elements; the presence of a certain relative autonomy and independence in structural elements with respect to each other and the system as a whole in relation to others systems⁴.

Regarding the concept of "legal system", the most objective point of view is introduced in terms of natural law understanding (social naturalism), where social phenomena is the highest form of development of nature and obey its laws as well as the physical and biological phenomena. According to Professor M. Kostenko, to perceive the system as a set of interconnected elements forming an unified whole, one should proceed from the idea of layering new forms of development. In other words, the idea is that in nature, higher forms of its development, evolving from lower ones, layer on them, do not destroy but coexist with them. Thus, the physical form develops into biological and layers on the physical one, and the biological form, in turn, develops into social and layers on the biological one. According to this, the laws, governing biological phenomena, is the highest form that evolved from the laws governing physical phenomena, and the laws, governing social phenomena, in turn, is the highest form that evolved from the laws governing biological phenomena. The laws, governing social phenomena, is the highest form of development of physical and biological laws that is not identical to them but is a foreign body, in the same way as they are for it⁵.

Respectively, the legal system, from the standpoint of the natural law understanding, is a complex of legal tools interconnected and coordinated with the laws of Nature, designed for regulation of public relations, and legal phenomena arising from such regulation (legal norms, legal principles, standards, sense of justice, legislation, legal relations, etc.)⁶.

Based on the understanding of the system and its features, one can determine the notion of "the system of law sources". However, in the scientific literature, there is no unified position about the definition of this term. Therefore, we shall consider the most interesting and reasonable points of view.

So, the scientist N. M. Parkhomenko describes the system of law sources as an organic, complex, multi-layered, dynamic and open system, the constituent elements of which are combined by structural relationships, each element of which is independent and can be studied separately⁷. This scientist notes that during the study of the content of "the system of law sources" one should also consider the type of legal consciousness that is dominant in the legal community. The modern legal consciousness is the basis for the recognition of the multi-layered system of law sources, applying a comprehensive and integrative approach to the study and development of the theory of law sources, combining formal and substantial aspects of legal consciousness, recognising the concept of law sources through such concepts as "justice", "freedom", "real public relations" and so forth, along with formal legal components like "norm", "legal text", and "law"⁸.

At the same time, R. B. Topolevskiy defines the system of law sources as a totality of all forms of legal and organizational consolidation and organisational provision of information on generally binding

¹ Перегудов, Ф.И., Тарасенко, Ф.П. (1989). *Введение в системный анализ*. Москва: Высшая школа.

² Ковальова, Т.В. (2005). *Великий тлумачний словник української мови*. Харків: Фоліо, 592.

³ Мовчан, П.М., Німчук, В.В., Клічан, В.Й. (2009). *Великий тлумачний словник сучасної української мови*. Київ: Видавництво «Дніпро», 1058.

⁴ Марченко, М.Н. (2008). *Источники права*. Москва: Изд-во Проспект, 175.

⁵ Костенко, О.М. (2008). *Культура і закон – у протидії злу*: Монографія. Київ: Атіка, 265.

⁶ Скаун, О.Ф. (2000). *Теорія державства и права*: Учебник. Харьков: Консум, 258.

⁷ Пархоменко, Н.М. (2008). *Джерела права: проблеми теорії та методології*: монографія. Київ: ТОВ «Видавництво «Юридична думка», 200.

⁸ Пархоменко, Н.М. (2009). *Джерела права: теоретико-методологічні засади*: автореф. дис.... д-ра юрид. наук 12.00.01. Київ: Ін-т держави і права ім. В.М.Корецького, 7.

rules of conduct (legal norms) in the totality of their relationships (genetic, structural, and functional) through which normative directions of the law, normative components of national or regional (supranational) legal systems and international law enforcement are objectified¹.

According to L. A. Luts, the system of law sources is a set of interrelated and mutually agreed regulatory directions that are objectified into appropriate external forms and form the regulatory organisation, necessary to ensure legal regulation in any society².

Though the generalized definition of the system of law sources is not sufficient for its objective understanding, hence it is necessary to distinguish its features: 1) the system of law sources is an external form of the legal system; 2) the primary element is a regulatory direction, through which the rule of law is formalized and objectified; 3) regulatory directions are interrelated and mutually consistent; 4) it is a multi-structural formation; 5) structural parts of the system of law sources include legal institutions, legal branches and other system formations; 6) it is a regulatory organisation required to ensure legal regulation in any society; 7) regulatory directions are objectified into appropriate external forms of law; 8) it has a dynamic, largely subjective nature (depends on activity of subjects of law-making)³.

All of these features are typical of the system of environmental law sources as an ordered set of external forms of expression of legal rules regulating public relations on issues related to the rational use of natural resources, environmental protection and ensuring environmental security. In Ukraine, the dominant environmental law sources are regulatory acts and international legal tools ratified by the Verkhovna Rada of Ukraine⁴.

However, the system of environmental law sources has the feature of comprehensiveness, since it encompasses elements from systems of other branches of law (land, water, bowels, forestry, etc) that were used in the formation of environmental law and were objectified into the appropriate environmental legislation. Given that the scope of environmental law covers almost all the spheres of society's life, in which environmental problems they occur and must be addressed, branches of law, governing the constitutional, civil, commercial, financial, managerial and other social relations, were involved in the formation of environmental law. At the same time, environmental law has its own subject of regulation and features of independence and "equality" with other branches. In this case, it has not lost its ties with other branches. Public environmental relations are also governed by the norms of constitutional, civil, administrative and other branches of law, the process of reflection of ecological requirements in which is called the greening of these branches⁵.

Having the comprehensive nature, the system of environmental law sources contains many interrelated elements. According to the general definition, law sources are commonly believed to be the acts of competent state and other bodies that establish or authorise the rules of law. These are the forms, methods of external expression and binding of legal rules⁶.

Based on this definition, the system of environmental law sources in the first place should include regulations and international legal treaties (agreements) ratified by Ukraine. Next, it should include the sub-legal acts, administrative treaties, regulatory documents, judicial precedents, legal customs, etc⁷.

We shall concentrate more on those elements of the system of environmental law sources that are more or less related to the standards and that influence their development.

So, the most important and structured part of the system of environmental law sources are regulatory acts, which are only structured differently in various studies: legal force – laws and sub-legal acts; form of the legal act – codified and non-codified; form of expression – written and oral; subject of legal regulation – general and specific; nature of legal regulation – substantive and procedural, etc⁸. But the question arises: what is the place of environmental standards among the environmental law sources?

¹ Тополевський, Р.Б. (2004). *Системні зв'язки юридичних джерел права*: автореф. дис. на здобуття наук. ступеня канд. юрид. наук: спец. 12.00.01. Харків: Національний ун-т внутрішніх справ, 11.

² Луць, Л.А. (2008). *Загальна теорія держави та права*: навч.-метод. Посібник. Київ: Атака, 163.

³ Луць, Л.А. (2008). *Загальна теорія держави та права*: навч.-метод. Посібник. Київ: Атака, 196.

⁴ Кобецька, Н.Р. (2008). *Екологічне право України*. Київ: Юрінком Інтер, 34.

⁵ Гвоздик, П. О. (2012). *Джерела екологічного права України*: монографія. Київ: Алерта, 53-54.

⁶ Гетьман, А.П., Шульга, М.В. (2009). *Екологічне право України*. Харків: Право, 22.

⁷ Курило, В.І. (2015). *Екологічне право України. Загальна частина*. Київ: Алерта, 21-25.

⁸ Каракаш, И.И. (2001). *Экологическое право Украины*: Курс лекций. Одесса: Одиссей, 26.

To answer this question we shall consider the system of environmental law sources of Ukraine in more details.

The criterion for the apportionment of sources in terms of legal validity is more convenient for perception, but this approach is incomplete as it includes only regulatory acts. For better understanding what should be regarded as environmental law sources we shall consider the latest ones according to the form of expression, that is, all written expressions of the law regarding the environment. This type is led by regulatory acts.

Regulatory acts are official documents of the relevant government bodies containing rules of law. As the sources of environmental law of Ukraine, they are not homogeneous, as they are interconnected in a strict hierarchical subordination and interdependence, and their structure reflects the complexity and structured hierarchy of the system of environmental law that covers legal acts of different legal force and legal specialisation¹. We consider the Constitution of Ukraine, natural resource codes and laws to be regulatory acts.

The Constitution of Ukraine² as the Basic Law of Ukraine plays a crucial role in shaping environmental policy and functioning of environmental legislation. Laws and other regulatory acts are adopted on the basis of the Constitution of Ukraine and shall conform to it (Article 8 of the Constitution). For example, Article 16 proclaims the state's obligation to ensure environmental safety, maintaining ecological balance; Article 50 proclaims the right of citizens to the environment that is safe for life and health. Pursuant to the provisions of Article 3 of the Law of Ukraine "On environmental protection" there is an established number of basic principles of environmental protection, foremost among which is the principle of priority of environmental safety requirements, mandatory compliance with environmental standards, regulations and limits for the use of natural resources while implementing economic, managerial and other activities³.

As one can see, the principle of priority of environmental security requirements is on a par with mandatory compliance with environmental standards. Environmental standards serve as the guarantor of environmental safety, which is why they are binding, in contrast to the majority of standards in other areas that are advisory by their nature.

Laws and natural resource codes are next, after the Constitution of Ukraine, in the hierarchy of legal acts. They have higher legal force in relation to other environmental law sources governing the totality of social relations that arise in the sphere of interaction between man and nature by establishing basic, fundamental, source provisions for the protection of the environment, environmental security, environmental management, etc. Implementing the principles of environmental protection, enshrined in Article 3 of the Law of Ukraine "On environmental protection", laws and codes define the direction in which there should be development of environmental legislation, establish environmental and legal criterion for the assessment of human behaviour, production and other economic activities, form the basis of other regulatory acts of sub-legal nature and normative and technical documentation (standards) that contain instructions, guidelines, regulations on the protection of the natural environment⁴.

The special place among the environmental law sources belongs to an international legal act – a separate document (convention, treaty, declaration, agreement, pact, protocol, statute, joint statement, charter, memorandum, regulation, act, etc.) that contains rules expressly recognised by states, which is the result of mutual expression and activity of subjects of international law (states and international organisations) aimed at the international regulation of public relations in the sphere of environmental protection⁵.

Duly ratified international treaties of Ukraine have greater legal force before the acts of national legislation, except the Constitution of Ukraine⁶. International legal agreements regulate environmental

¹ Курило, В.І. (2015). *Екологічне право України. Загальна частина*. Київ: Алерта, 21.

² Конституція України 1996 (Верховна Рада України). *Відомості Верховної Ради України*, 30.

³ Закон про охорону навколишнього природного середовища 1991 (Верховна Рада України). *Відомості Верховної Ради України*, 41.

⁴ Гвоздик, П.О. (2012). *Джерела екологічного права України*: монографія. Київ: Алерта, 127.

⁵ Шпарик, Н. (2014). Поняття та ознаки міжнародно-правового акта як джерела екологічного права України. Львів: Вісник Львівського університету. Серія юридична, № 59, 317.

⁶ Закон про міжнародні договори України 2004 (Верховна Рада України). *Відомості Верховної Ради України*, 50, стаття 19.

issues that have a planetary character and cannot be effectively be adjusted only to the legislation of one or several countries¹. International legal acts are an important source of environmental law since they are the "benchmark" of lawmaking in the field of the environment at the national level. The examples of such a "benchmark" are international legal standards in the field of the environment – the standards of the International Organisation for Standardization ISO (ISO 9000 and ISO 14000), which is actually a normative and technical documentation.

The concept of "normative and technical documentation" in Ukraine includes State Standards of Ukraine, National State Standard, Branch Standards of Ukraine, state classifiers, state construction norms, international standards (ISO, IEC, EN), standards of scientific, technical and engineering societies and unions of Ukraine, enterprise standards, technical specifications, and technical regulations. Most of the normative and technical documentation is used to regulate public relations only on a voluntary basis, therefore they are called sources of "soft law"². Another point of view was expressed by Professor V. I. Andreitsev, who considered environmental standards as legally relevant normative and technical documentation that contains environmental requirements, rules and regulations, and is binding³.

Therefore, we shall consider the standards, particularly environmental, in more details to determine their place in the system of environmental law sources of Ukraine.

The concept "standard" is defined in the explanatory dictionary as a common pattern, a single typical form of organisation, conduct, and implementation of certain activities, as well as the type of activity result that meets certain requirements as to quality or other properties⁴. So, the standard should be a model, pattern, or norm, with characteristics, properties, or criteria for the implementation of which the activity or outcome of such activity is coordinated⁵.

The standard, in accordance with Article 1 of the Law of Ukraine "On standardization"⁶, is a document developed by consensus and approved by an authorized body that sets rules, guidelines or characteristics designed for general and repeated use that are related to activity or its results, including products, processes or services with which compliance is optional. The standard can contain requirements to terminology, symbols, packaging, marking or labelling applied to a product, process or service.

Regarding the mandatory environmental standards, according to L.O. Bondar, this issue today is not clearly defined in the Ukrainian legislation. On the one hand, under Article 32 of the Law of Ukraine "On environmental protection", national environmental standards are binding. In accordance with paragraph 2 of Article 5 of the Decree of the Cabinet of Ministers of Ukraine "On standardisation and certification"⁷, the ecological requirements of state standards are mandatory. The obligation of state standards means recognition of their regulatory acts⁸.

If we analyse some special laws, then we shall see the direct reference to the obligation of standards. Thus, according to Article 18 of the Law of Ukraine "On energy saving"⁹, the energy standards are mandatory. They are the basis for the use of economic sanctions for inefficient use of fuel and energy resources, production of energy inefficient equipment and materials. In addition, Article 11 of the Law of Ukraine "On construction standards"¹⁰ stipulates provisions, according to which, if the construction regulations contain references to the standards, these standards are mandatory.

However, according to Article 57 of the Constitution of Ukraine, everyone is guaranteed the right to know their rights and responsibilities: regulatory acts defining the rights and responsibilities of citizens, not communicated to the population in the manner prescribed by the law, are invalid. Also, until early 2004,

¹ Кобецька, Н.Р. (2008). *Екологічне право України*. Київ: Юрінком Інтер, 36.

² Курило, В.І. (2015). *Екологічне право України. Загальна частина*. Київ: Алерта, 22.

³ Андрейцев, В.І. (1996). *Екологічне право: Курс лекцій в схемах*. Київ: Вентурі, 145.

⁴ Яременко, В.В., Сліпущко, О.М. (2011). *Новий тлумачний словник української*. Київ: Аконт, 413.

⁵ Кальченко, С.В. (2013). *Структура та джерела європейських стандартів. Оскарження порушень законодавства про вибори*. Київ: Вісник НТУУ «КПІ». Політологія, 154.

⁶ *Закон про стандартизацію 2014* (Верховна Рада України). *Відомості Верховної Ради України*, 31.

⁷ *Декрет про стандартизацію і сертифікацію 1993* (Кабінет Міністрів України). *Відомості Верховної Ради України*, 27

⁸ Бондар, Л.О. (2002). Законодавчі основи стандартизації та нормування у царині охорони довкілля. <<http://ecopravo.host-ua.org.ua/nauk/uprav/ekonorm.htm>>

⁹ *Закон про енергозбереження 1994* (Верховна Рада України). *Відомості Верховної Ради України*, 30.

¹⁰ *Закон про будівельні норми 2009* (Верховна Рада України). *Відомості Верховної Ради України*, 5.

while paragraph 5 of Article 5 of the Decree of the Cabinet of Ministers of Ukraine "On standardisation and certification" was valid, state standards were considered as objects of copyright, which determined the payment for access to such documents but not regulatory acts. If the constitutional principle of availability of any regulatory act is violated, then, as noted by L.O. Bondar, state standards of Ukraine cannot be considered mandatory¹.

This conflict was solved by the adoption of the new Law of Ukraine "On standardisation" on June 5, 2014². According to Article 23 of this Law, the national standards are applied directly or through references to them in other documents. They are applied on a voluntary basis, except the cases when their obligation is set by regulatory acts. The national standardisation body shall post the texts of national standards, the mandatory application of which is established by regulatory acts, on the official website no later than 30 calendar days from the day of official publication of such acts, with free access to these national standards and codes of practice.

Simply put, the standards become mandatory only if this is stipulated in regulatory acts. The similar provision is contained in Article 15 of the Commercial Code of Ukraine³. According to paragraph 2 of this Law, the application of standards or their particular provisions is mandatory for:

- business entities, if the standards are referred to in technical regulations;
- parties to the agreement (contract) regarding the development, manufacture or supply of products if it refers to certain standards;
- the manufacturer or the supplier if this is the one who has amounted the declaration of product compliance to certain standards or has applied the designation of these standards in labelling.

Thus, we can state that national standards are currently mandatory only when the obligation of their application is established by regulatory acts and, thus, they should be posted on the official website among other texts of national standards. In all other cases, as noted by L.O. Bondar, standards, state construction norms as their varieties, can be mandatory and can be applied as recommended acts. One cannot be legally responsible for their violation⁴.

Environmental standards, according to the provisions of paragraph "a" of Article 3 of the Law of Ukraine "On environmental protection", as has already been noted, are in substantial part of the basic principle of environmental protection, namely the priority of environmental safety requirements, in part of the *mandatory compliance with environmental standards*, norms and limits of use of natural resources while implementing economic, managerial and other activities. Given the mentioned principle, environmental standards can be considered binding, although they do not have the status of regulatory acts. This principle is confirmed by Article 32 of this Law, which establishes that state standards in the field of environmental protection are mandatory.

However, recently, the Ukrainian environmental legislation has changes in terms of standards. Thus, at the beginning of 2017, the Ministry of Economic Development and Trade of Ukraine developed the draft law, the provisions of which were aimed at bringing the national standardisation system in line with international and European practice, in particular, it established: voluntary implementation of national standards; prevention of the approval of national standards projects with government agencies; prevention of legal regulation of relations connected with the development of standards of enterprises, institutions and organisations, as well as technical terms; abolition of branch standardisation (therefore, central executive authorities have the right to review and to inspect branch standards in their respective areas of activities and within their powers with the purpose of their transfer to the national level or the enterprise level or cancellation for the period of 15 years). Voluntary application of standards meets the requirements of the Agreement on technical barriers to the trade of the World Trade Organisation and the European principles of standardisation⁵.

¹ Bondar, L.O. (2002): Законодавчі основи стандартизації та нормування у царині охорони довкілля. <<http://ecopravo.host-ua.org.ua/nauk/uprav/ekonorm.htm>>

² Закон про стандартизацію 2014 (Верховна Рада України). *Відомості Верховної Ради України*, 31.

³ Господарський кодекс України 2003 (Верховна Рада України). *Відомості Верховної Ради України*, 18

⁴ Bondar, L.O. (2002): Законодавчі основи стандартизації та нормування у царині охорони довкілля. <<http://ecopravo.host-ua.org.ua/nauk/uprav/ekonorm.htm>>

⁵ Проект Закону про внесення змін до деяких законодавчих актів України у зв'язку з прийняттям Закону України «Про стандартизацію» 2017 (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://www.me.gov.ua/Documents/Download?id=ba823943-8d4c-4a69-a3e2-253a8e2b1741>>

Maybe, in the near future, the use of national standards will be voluntary, they will not be approved by government agencies, and branch standards will disappear – all this does not mean that standards will have less impact on the development of the environmental law of Ukraine. As if we are talking about approximation of legislation to international and European practice, it should be noted that in the European Union the concept of the "source of law" is used in the context of forms of external expression of the law under which the subjects of law in the European Union are endowed with rights and responsibilities. So, in the law of the European Union, the great importance is attached to recommended acts that can provide certain responsibilities of the subjects of legal relations, the non-execution of which may be the ground for, if not direct negative consequences, then at least a significant complication of the possible implementation of their rights within the framework of integrative formation. In particular, the second part of Article 117 of the Treaty on the Functioning of the European Union states that failure to comply with the recommendation of the Commission by a member-state releases other member-states from the obligation to take into account the issues of this state. In addition, the EU Court in its practice has repeatedly noted the obligation of national courts of member-states to use the recommended acts of the Union for the interpretation of national legislation¹.

On December 13, 1989, the Court of the European Union, in case C-322/88 "Grimaldi v Fondesdes Malaises Professionnelles"², stressed that "recommended acts of the institutions of the European Union cannot be considered such that do not create legal obligations at all. Courts of member-states are obliged to take them into account while solving cases on the merits and implementation of interpretation of national law adopted with the aim of implementation of the EU rules of law" (p. 18)³. The above-mentioned decision of the EU Court is an example that recommended acts (such as ISO standards) can also have legal implications which, in a sense, gives reason to consider them as sources of law. Not to mention the economic interest in compliance with the provisions of environmental standards, in particular, international. Enterprises, which have certificates of conformity to ISO 9000 or ISO 14000, have a free pass to the international arena of trade, creating a huge potential for revenue growth of the company. Obtaining competitive privileges encourages enterprises to meet the requirements of the standards much more efficiently than government sanctions.

And considering the fact that the provisions of European standards are constantly improving, the standards become more significant for implementation than even the laws of a certain European country. Large and medium enterprises, focusing on international recognition of their products, seek to obtain a certificate of compliance with European standards, including in the field of ecology. States, in turn, also begin to use European standards for changing national standards and legislation. Given the fact that the European standards are voluntary in their implementation, the International Organisation for Standardisation (ISO) has proved that formally binding norms can greatly influence the environmental legislation. Therefore, the basis of the obligation of environmental law sources is now somewhat relegated to the background.

If we get back to the legislation of Ukraine, according to the criterion of obligation, directions of environmental standards can be compared to regulations or even laws, as they are binding. And, given the active adaptation to European norms, even in the event of any change in the legislation regarding the establishment of a voluntary implementation of all standards, the latter will not lose significance for the formation of provisions of the environmental legislation.

Regarding the division into levels, environmental standards, as well as standards in general, can be national, interstate and international. Thus, the concept of "national environmental standard" means a standard promulgated by the national bodies for standardisation, which is applied in Ukraine. National standards have the designation (abbreviation) DSTU – the state standard of Ukraine.

The interstate standard is a standard which, at one time, was applied in the USSR, and is now used in Ukraine. International standards have the designation GOST – the state standard, which has remained since the Soviet times.

¹ Яковюк, І. (2013). Система джерел права Європейського союзу: загальна характеристика. *Філософія права і загальна теорія права*, 1, 211-212.

² Judgment of the Court of Justice of the European Communities in the case C-322/88 «Grimaldi v Fondesdes Malaises Professionnelles» of 13.12.1989. European Court Reports

³ Яковюк, І. (2013). Система джерел права Європейського союзу: загальна характеристика. *Філософія права і загальна теорія права*, 1, 211-212.

The International standard is a standard which is applied in several countries, e.g. in the EU countries. International standards are marked as ISO (international standardisation system), EN (European norms). International standards, introduced in Ukraine, have designations DSTU ISO (ДСТУ ISO) and DSTU EN (ДСТУ EN)¹.

If we analyse levels of environmental standards from the point of view of their legal nature, then, despite their obligation is defined by the law, standards are not laws and do not provide sanctions for failure to comply with them. Therefore, given the position of ecologists, we can distinguish the following types of standards:

- environmental standards that are regulatory acts, as their requirements are applied at all stages of production (example: ДСТУ 3911-99 Protection of nature. Waste management. The identification of waste and the submission of information on waste. General requirements). The variety of environmental standard is a technical regulation. As defined in the legislation, it is a regulatory act, which defines product characteristics or their related processes and production methods, including the relevant procedural provisions, the compliance with which is mandatory²;

- environmental standards that contain mandatory requirements and form part of the legal norm, since their directions seem to keep and elaborate certain provisions of laws (example: ДСТУ 2195-99. Protection of nature. Waste management. Technical passport of waste. Composition, content, presentation and rules of making changes. – the rule of law contained in Article 27 of the Law of Ukraine "On waste"³, but part of the disposition of this rule that establishes mandatory requirements for technical passports of waste is in this DSTU);

- environmental standards that are non-mandatory normative and technical documents, which do not contain binding rules, as they contain only instructions for improvement of work of all enterprises (example: ДСТУ 14001-97. The system of environmental management. The composition and description of the elements and recommendations on their application)⁴.

Thus, environmental standards may be approved at different levels and have a different legal force (non-mandatory normative and technical documents of a regulatory act). Collectively, they all belong to the system of environmental standards of Ukraine and are used to assess the state of the natural environment and its components, regulate production and economic objects with the purpose of nature protection, rational use of natural resources, securing sufficient quality of the natural environment on the basis of the right combination of environmental and economic interests of society in terms of economic or recreational activities, etc⁵.

Unlike national legislation, which is aimed primarily at resolving the social norms within the country, environmental standards have an international legal focus. Professor S. M. Kravchenko noted that nature does not recognise state borders. Some of the unique natural complexes, territories and objects, especially protected, are on the territory of several states that requires the coordination of their efforts. The natural prerequisites of international legal regulation of environmental protection are the limited resources and spatial boundaries of the biosphere⁶.

The international legal focus of environmental standards in recent years has acquired a special relevance. Thus, according to the Basic Principles (Strategy) of the state ecological policy of Ukraine for the period until 2020⁷, the introduction of international standards in the field of resource saving, environmental protection, mining, environmental management systems and environmental criteria for goods and services will provide an opportunity for domestic producers to improve environmental aspects of products and the level of competitiveness in international markets.

¹ Ладиженський, В.М., Телюра, Н.О. (2011). *Конспект лекцій навчальної дисципліни «Екологічна стандартизація і сертифікація»*. Харків: ХНАМГ ім. Бекетова, 6.

² *Закон про технічні регламенти та оцінку відповідності 2015* (Верховна Рада України). *Відомості Верховної Ради України*, 14, пункт 1 статті 1.

³ *Закон про відходи 1998* (Верховна Рада України). *Відомості Верховної Ради України*, 36.

⁴ Бондар, Л.О. (2004). Правове регулювання екологічної стандартизації в Україні. <<http://ecopravo.host-ua.org.ua/nauk/uprav/ekonorm.htm>>

⁵ Ситник, К.М., Брайон, О.В. (1994). *Словник-довідник з екології*. Київ: Н.Д., 475.

⁶ Кравченко, С.М. (2002). *Актуальні проблеми міжнародного права навколишнього середовища: підручник*. Львів: Вид. центр ЛНУ, 5.

⁷ *Основні засади (Стратегія) державної екологічної політики України на період до 2020 року 2010* (Верховна Рада України). *Відомості Верховної Ради України*, 26

It is necessary to develop a subsystem of standardisation and certification in the field of environmental protection, to approve the environmental requirements for products, as well as to harmonize the national standards with EU norms and international standards of ISO 14000 and ISO 19000 series with the strengthening of control by the state over the use of environmental labels, in particular, regarding the content of genetically modified organisms. The priority of this tool is the development and implementation of the system of state support for domestic producers of products with improved environmental characteristics in accordance with the statutory requirements, as well as the improvement of the methods and systems of state control and statistical reporting in the field of environmental protection¹.

During 2017-2020, it is assumed to implement a gradual separation of functions for the protection of the natural environment and economic activity with the use of natural resources, the implementation of European environmental norms and standards, the ecosystem planning, the implementation primarily of economic mechanisms in ecologically-oriented structural reforms, the achievement of balance between social and economic needs and problems in the field of environmental conservation, ensuring the development of environmentally effective partnerships between government, business entities and the general public, as well as wide distribution of environmental knowledge².

Also, at the beginning of 2017, one is actively developing a draft of the medium-term plan of priority actions of the Government by 2020³, where one of the preferences is ensuring in the medium term (within a year) the approximation of Ukrainian legislation to the EU legislation in terms of setting standards for ambient air quality in relation to the contents of the most harmful air pollutants and air quality control.

The priorities of these actions are the reduction of air pollution and more sustainable management of environmental quality. Due to certain measures, the following will be ensured: reduction of concentration of pollutants and greater protection of human health, vegetation, and ecosystems; strengthening the institutional capacity for the formation and implementation of state policy in the field of climate change and the protection of the ozone layer; prevention of the ozone layer destruction by reducing emissions of ozone-depleting substances; adaptation to climate change, increasing resilience and reducing risks associated with climate change⁴.

These tasks cannot be achieved without constant renewal of the system of national environmental standards and their gradual approximation to the EU standards. And for this purpose, we need to change the environmental legislation. Thus, while environmental standards do not alter the specific laws of Ukraine, the continuous improvement of national standards and the introduction of the European ones set the direction for the formation of the general environmental legislation of Ukraine.

From the point of view of importance and influence on the formation of the legislation, in the system of environmental law sources, standards occupy a position somewhere after the regulatory acts and international treaties, as they have normative and international legal focus.

Therefore, standards as part of the system of environmental law sources are official, documented, mandatory regulatory acts with international legal trends in the field of rational use of natural resources, environmental protection and ensuring environmental safety, which are developed on the basis of consensus and approved by the authorised body, which establish requirements, rules, instructions or characteristics designed for general and repeated use, relating to activities or its results, including products, processes or services.

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¹ *Основні засади (Стратегія) державної екологічної політики України на період до 2020 року 2010* (Верховна Рада України). *Відомості Верховної Ради України*, 26

² *Основні засади (Стратегія) державної екологічної політики України на період до 2020 року 2010* (Верховна Рада України). *Відомості Верховної Ради України*, 26

³ *Середньостроковий план пріоритетних дій Уряду до 2020 року та план пріоритетних дій Уряду на 2017 рік 2017* (Кабінет Міністрів України). *Урядовий кур'єр*, 85.

⁴ *Середньостроковий план пріоритетних дій Уряду до 2020 року та план пріоритетних дій Уряду на 2017 рік 2017* (Кабінет Міністрів України). *Урядовий кур'єр*, 85.

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