

UDC 349.6:349.41

INTERNATIONAL EXPERIENCE OF LEGISLATIVE REGULATION OF DRINKING WATER SUPPLY: THE EXAMPLE OF THE KINGDOM OF THE NETHERLANDS

**L.O. GOLOVKO, PhD in Law, associate professor,
National University of Life and Environmental Sciences of Ukraine¹**

***Анотація.** In the article the legal regulation of drinking water in the Netherlands was investigated. Provisions of the new integral Water Act were analyzed. Special attention was paid to the main areas in which the Water Act changes the existing Dutch water legislation.*

***Ключові слова:** International law, the human right to safe drinking water, legislation of the kingdom of the Netherlands on safe drinking water, Water Act of the kingdom of the Netherlands.*

Ukraine is still among the countries that have a low level of ensuring of the population with qualitative drinking water. The domestic regulatory framework in the sphere of drinking water supply requires improvement. Therefore it is important to study the experience of leading countries that succeed in implementing development programs and upgrading water supply systems in order to ensure their citizens with qualitative drinking water. One of such countries is certainly the Netherlands.

Analysis of recent research and publications. A wide range of researchers, namely M. Deynega, H. Gafurova, R. Grygorovych, I. Gyrenko [1], O. Hulak [2], S. Kondratiev, V. Ladychenko [3, 4], V. Lukyanyhin, E. Shulga [5], V. Yermolenko and others paid attention to the problems of legal regulation of drinking water supply. However, legal regulation of drinking water supply in the Netherlands has not been widely studied in domestic science.

The purpose of the article. The article aims to clarify legal regulation of drinking water supply in the Netherlands and the Dutch system of guarantees which provide protection and safety of drinking water.

The Netherlands is one of the few countries where chlorine is not used at all, neither for primary disinfection or to maintain a residual disinfectant in the distribution network. The Dutch approach that allows production and distribution of drinking water without the use of chlorine while not compromising microbial safety at the tap, can be summarized as follows: use the best source available, in order of preference: microbiologically safe groundwater, surface water with soil passage such as artificial recharge or bank filtration, direct treatment of surface water in a multiple barrier treatment; use a preferred physical process treatment such as sedimentation, filtration and UV-disinfection. If absolutely necessary, also oxidation by means of ozone or peroxide can be used, but chlorine is avoided; prevent ingress of contamination during distribution; prevent microbial growth in the

distribution system by production and distribution of biologically stable (biostable) water and the use of biostable materials; monitor for timely detection of any failure of the system to prevent significant health consequences [6].

The Water Act is a key federal law regulating drinking water supply in the Netherlands. The law was adopted in 2009 after extensive research of public water supply systems. A new Water Act in the Netherlands aims to provide integrated management and fulfil EU water objectives. The objectives of the Water Act are the prevention and mitigation of flooding and water shortages as well as the protection and improvement of the chemical and ecological quality of water systems; assistance in the practical achievement of a number of EU water objectives in these areas. The focus of the Water Act is achieving an integrated system of water management by the authorities [7]. The Water Act consolidated and replaced the eight existing Acts on water: Water Management Act; Surface Waters Pollution Act; Marine Waters Pollution Act; Groundwater Act; Act of 14 July 1904 containing provisions on land reclamation and construction of dikes; Flood Defences Act; Public Works Management Act (sections relating to waterways); Public Works Act 1900 (sections relating to waterways). Furthermore, sections from the Soil Protection Act relating to waterbeds are incorporated into the Water Act.

There are three main areas in which the Water Act changes the existing legislation. These are as follows. Before integral Water Act was enacted, Dutch law allowed individuals and companies to claim compensation for damage caused by policy decisions made by designated public authorities (such as municipalities, district water boards and provinces) that are responsible for water management in relation to individuals and companies. By way of example, compensation was recoverable where damage has been caused to electrical equipment in a basement by a decision of the authorities not to take action to alleviate a flood risk. As a result of reforms under the Water Act, compensation payments for such damage is limited. Damage will only be compensatable if: it is «disproportionate»; i.e. the damage falls outside the so-called «social risk» area (this concept reflects the principle that individuals have to take responsibility for ordinary every day risks); an important aspect in determining the «social risk» is the extent to which the damage was expected; it affects a limited group of interested parties – previously statutory regulations did not define who qualified as an interested party [8].

After the adoption of the new Water Act one single permit will be required for all water activities impacting on the environment. Before integral Water Act was enacted, there were six separate permits, which were issued for: the drainage of polluting substances; the drainage of clean water; the extraction of ground water; infiltration in groundwater; recreational activities; and dumping in the sea and the building/use of public works. This change to the law simplifies obtaining the permission.

The final amendment is the introduction of «recovery areas» for the temporary storage of mostly sea or river water. These areas are designated buffer areas used for storage of excess of water from flooding. The competent authority will have potentially draconian new powers to compulsorily acquire land or property rights over land where necessary to enforce designation of a recovery area [8].

An interesting feature of the Dutch water sector is the use of benchmarking in the water sector. Customer satisfaction and service care are every day pushing professionals in the water industry to seek to improve their performance, lowering costs and increasing the provided service level. Benchmarking is generally recognized as a systematic mechanism of comparing one's own utility with other utilities or businesses with the intent of self-improvement by adopting structures or methods used elsewhere [9]. From 1997 onward, the benchmarking results were made public. The benchmarking activities are conducted on a voluntary basis at the initiative and cost of the concerned service providers. A large majority of the providers participates in the voluntary benchmarking exercise, signalling that the importance of benchmarking in the water supply sector is widely understood and appreciated. The voluntary benchmarking is stated to serve two objectives, namely to provide greater transparency to interested parties, and to provide the water companies with insights on how to improve their processes [10, p. 253].

Dutch Parliament in 2004 adopted a law that prohibits drinking water supply by private companies. This prohibition applies only to services of supply of drinking water and wastewater treatment. Drinking water is considered in the Netherlands a public service. The government's view is that drinking water supply being a natural monopoly should not be privatized and drinking water policy is aimed at guaranteeing a high quality drinking water for everyone at a reasonable price for now and in the future [11].

Thus, the main features of the legislation of the Kingdom of the Netherlands in the field of drinking water supply are: production and distribution of drinking water without the use of chlorine, the use of benchmarking in the water sector, prohibition of drinking water supply by private companies.

Literature:

1. Гиренко І.В. Місце та роль галузей права у системі правової охорони рослинного світу України / І.В. Гиренко // Науковий вісник Національного університету біоресурсів і природокористування України: Серія «Право». – 2014. – № 197–2. – С. 124–130.
2. Гулак О.В. Забезпечення пожежної безпеки лісових масивів на сучасному етапі розвитку нашої держави / О.В. Гулак // Науковий вісник Національного університету біоресурсів і природокористування України: Серія «Право». – 2013. – № 182. – Ч. 2. – С. 190–194.
3. Viktor Ladychenko. LEGAL REGULATION OF THE COMMON AGRICULTURAL POLICY IN THE EU / Viktor Ladychenko, Lyudmyla Golovko // EARTH Bioresources and Life Quality.– 2013. – №3 :[Електронний ресурс]. – Режим доступу : <http://gchera-ejournal.nubip.edu.ua/index.php/ebql/article/view/102>
4. Ладиченко В.В. Організаційно-правові механізми взаємодії особистості, громадянського суспільства та державної влади : монографія / В.В. Ладиченко; Кабінет Міністрів України, Нац. ун-т біоресурсів і природокористування України. – Д.: ЛІРА, 2012. – 431 с.
5. Шульга Є.В. Окремі аспекти ефективності міжнародно-правового захисту прав людини насприятливого навколишнього середовища / Є.В. Шульга // Науковий вісник Національного університету біоресурсів і природокористування України: Серія «Право». – 2015. – № 213. – Ч. 1. – С. 233–238.

6. The Dutch secret: how to provide safe drinking water without chlorine in the Netherlands : [Electronic resource]. – Access mode: <http://www.drink-water-eng-sci.net/2/1/2009/dwes-2-1-2009.pdf>
7. Towards better water quality : [Electronic resource]. – Access mode: <https://www.government.nl>.
8. Netherlands: New Dutch Water Legislation : [Electronic resource]. – Access mode: <http://www.mondaq.com>
9. Parena R. Benchmarking initiatives in the water industry / Parena R., Smeets E. : [Electronic resource]. – Access mode: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.461.6463&rep=rep1&type=pdf>
10. Kurian M. Peri-urban Water and Sanitation Services: Policy, Planning and Method / Mathew Kurian, Patrica McCarney. – Delft: Springer Science&Business Media, 2010. – 300 p.
11. Pieter van Geel Innovative practices in the Drinking Water Supply in The Netherlands : [Electronic resource]. – Access mode: <http://www.unep.org/GC/GCSS-VIII/NetherlandsWatSan.pdf>

У статті досліджено правове регулювання забезпечення якості питної води в королівстві Нідерланди. Здійснено аналіз положень Закону про воду. Особливу увагу було приділено основним сферам, в яких Закон про воду вносить зміни до водного законодавства Королівства Нідерланди.

Міжнародне право, право людини на безпечну питну воду, законодавство Нідерландів про безпечну питну воду, Закон про воду Королівства Нідерланди.

В статье исследовано правовое регулирование питьевой воды в королевстве Нидерланды. Осуществлен анализ положений Закона о воде. Особое внимание было уделено основным сферам, в которых Закон о воде вносит изменения в водное законодательство королевства Нидерланды.

Международное право, право человека на безопасную питьевую воду, законодательство Нидерландов о безопасной питьевой воде, Закон о воде королевства Нидерланды.