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**BASIC CONCEPTS OF ADAPTATION THE TECHNICAL REGULATION
OF ENVIRONMENTAL PROTECTION TO THE REQUIREMENTS
OF THE EUROPEAN UNION**

Stages of formation of environmental policy of the European Union are highlighted. The European experience to improve the organizational and legal mechanism for regulating land use and protection in Ukraine is evaluated.

Keywords: safety, environment, environmental disaster, environmental policy, mechanism, natural resources, formation.

Гіндес О. Г. Основні положення адаптації технічного регулювання у сфері охорони навколишнього природного середовища до вимог Європейського Союзу

Виділено етапи формування екологічної політики Європейського Союзу. Досліджено європейський досвід щодо удосконалення організаційно-правового механізму регулювання використання та охорони земель в Україні.

Ключові слова: безпека природного середовища, екологічна катастрофа, екологічна політика, механізм, природні ресурси.

Гиндес О. Г. Основные положения адаптации технического регулирования в сфере охраны окружающей естественной среды к требованиям Европейского Союза

Выделены этапы формирования экологической политики Европейского Союза. Исследованы европейский опыт по усовершенствованию организационно-правового механизма регулирования использования и охраны земель в Украине.

Ключевые слова: безопасность природной среды, экологическая катастрофа, экологическая политика, механизм, природные ресурсы.

Introduction

The twentieth century brought many benefits to the mankind that are connected with the rapid development of scientific and technological progress, and at the same time, these developments put life on the Earth to the brink of ecological disaster. Growth of world population, intensification of extraction of natural resources in many countries, uncontrolled emissions and the discharge of pollutants lead to radical changes in the environment and reflect on the very existence of mankind.

Involvement and even delay in the decision of the most critical problems related to protection of the environment can lead to catastrophic consequences for the whole of civilization. All of this can not but cause deep distress and concern. Until recently social progress was associated exclusively with a growing appreciation of public needs at the expense of unlimited by anything exploitation of natural resources. To avoid total ecological crisis under such circumstances it is necessary to invent ways of making appropriate changes in the model and the nature of production,

to achieve a reasonable limit of consumption, to develop a system of responsibility for the safety of the environment, immediate measures for its protection as well as to severely punish those specifically responsible for pollution of the environment.

Analysis of recent research

Significant contribution to the development of theory and practice of evaluating the effectiveness of natural resources and economic activities have made the following scientists: A. Aganbegyan, L. Abalkin, B. Burkynskyy, V. Mishchenko, O. Tsarenko, L. Melnyk, M. Hvesyk, S. Harichkov, B. Stepanov, A. Aksenenko, O. Amosha, T. Ben', I. Bulyeyev, A. Wasylyk, N. Konischeva, A. Tury-lo, L. Chervova, M. Chumachenko, A. Sheremet, and others.

Statement of research objectives

– to highlight the stages of ecological policy's formation of the European Union;
– to evaluate the European experience concerning the improvement of the organizational and legal mechanisms for regulating land use and land protection in Ukraine.

Results

Environmental problems in the modern world in a large-scale have global, interstate and regional nature. Clearly, each country inherits its peculiar set of environmental characteristics and each re-gion has a specific set of environmental problems.

Centralized and structured environmental policy is typical for the twentieth century. This environmental policy is characterized primarily through the use of the industrial model for resource consumption, resulting in decades to an unprecedented degradation of the environment in all European countries. However, European countries were among the first countries to note that the favorable environment condition for the human being is one of the components of high quality of life [2; 3].

The European Union in the past 50 years has carried out its own policy in the field of environmental protection. The EU made significant on the scale nature conservation measures, established legal framework for regulation and coordination of environmental activities of the Member States, developed and implemented new approaches to protection and improvement of environmental quality. The European Union is one of the world leaders in the field of international environmental cooperation. At the same time this environmental policy and activities of the EU as a whole are inextricably linked with global events in the field of environmental protection, including those conducted under the auspices of the United Nations Organization.

However, this situation with the environment protection in the EU has not always been this way. For instance, the founding treaty of Rome in 1957 did not give the EU an authority in the field of environmental protection. Activities of the EU in that period only briefly touched this field and were committed for the achievement of other economically and socially significant goals. Environmental activities were carried out optionally. However, in the early 1970s because of the worsening of the environmental crisis in Europe there was a need for environmental action at the EU level. In the 1970s the decisions on the development of the organization active in the field of environmental protection were adopted at the meeting of the EU heads of states. Still, the positions of the founding treaty of Rome were not reviewed, and the competence of the EU in the sphere of environment protection was still not provided [6].

There are five stages of ecological policy of the European Union that can be distinguished.

The first phase (1957-1971 years) is characterized by the lack of the EU's legal competence in the environment protection. Only a few optional activities in the sphere of the environment protection were held at this stage. At first the «environment» was not highlighted in the Treaty of Rome in 1957 as a sphere of general European integration. However, environmental issues defined limits of legal regulation of a common market creation in the EU countries, which, for example, is reflected in the Article 36 of the abovementioned Treaty, which allows Member States to introduce restrictions on the import, export, transit of commodity circulation for reasons of environmental safety. Overall, despite the lack of a common policy in the environment area in this period, the EU institutions were prepared to expand their activities in an ecological direction. Problems of environmental protection were touched more precisely in the secondary law, especially in the documents aimed to implement common agricultural and energy policy of the EU countries.

The second phase (1972-1985 years) is characterized by carrying out the initial steps to protect the environment by the European Union countries, the advent of the first programs of action in this area, the initial development of legal regulation in the field of ecology. In 1972, the Council of Heads of Government of the EU decided to expand the competence of the EU, including the environment protection sphere. However, the amendments were not made in the primary EU law. All decisions in the new field of activity were adopted through the articles of the Treaty of Rome of 1957, which made it possible to achieve the objectives of the EU to take actions in the areas not designated in the memorandum. This extension of competence received a title of a «transfusion effect». Regulation of a new region of integration was carried out mainly through the issuance of directives – acts harmonizing the rights of the EU Member States. European Union joined a number of important international conventions on environmental protection, such as the Convention on the Protection of Wild Flora and Fauna and Natural Habitat in Europe (1979), International Tropical Timber Agreement (1983), the Convention on Transponder Air Pollution on Long Distances (1979). Thus, the second stage was marked by the establishment of Community policy concerning the environment and the development of the main ways of its legal regulation.

The third stage (1986-1991 years) can be described as a consolidation phase of competence in the field of environmental protection by the EU institutions. The Single European Act of 1986 made amendments to the Treaty of Rome of 1957. The Single European Act identified goals and objectives, principles and directions of the EU policy in the sphere of an environmental protection. In relations between the EU and the Member States in environmental protection the principle of subsidiarity was introduced. This principle means that the EU operates in the field of ecology to the extent to which the objectives of environmental policy can be implemented at the EU level in a better way than at the individual Member States' levels. The growth of the legal regulation of the environmental activities on the basis of regulations – acts of environmental legislation of the Member States is seen in secondary law. Simultaneously, activities continued in coordination of the legal framework of the EU Member States, particularly in the field of soil protection and environmental protection from chemical contamination. During this period of primary importance for the Community had become the questions of implementation of evaluating system of the likely impact on the environment, monitoring, dissemination of environmental information and making publicly available the environmental information, and especially financing of environmental activities. Therefore, the process of the EU policy formation towards the environment protection and legal regulation in this sphere in its main features was completed in the third stage [7].

In general, in the early stages of measures to protect the environment about 200 laws regulating the challenges of industrial wastes, water pollution and air pollution were adopted in the period since 1972. A characteristic feature of this period was vertical and sectoral approach to environmental problems. The first European Union Action Programme in the field of environment protection was based on this approach.

Fourth stage (1992-2002 years) stands out among other stages with the improvement of the EU's environmental policy. During this time the basic frameworks of the current environmental policy were marked through institutional strengthening of the environmental policy's questions and the environmental issues in the EU Treaties.

Today the goal and objectives of the EU policy towards the environment are stated as follows:

- preservation, protection and improvement of the state of the environment;

- concern for the protection of human health;
- achievement of rational use of natural resources;
- promotion of measures at the international level that address regional and global issues of environmental protection.

It is important to note that the European Union's environmental policy has a «pass through» character, which was enshrined by the Maastricht Treaty in 1992 (Declaration number 20). The EU activities in the field of environmental protection are due to such three features:

- EU environmental expertise is shared with the Member States;
- environmental activities of the EU is inextricably linked with other areas of European integration.

In the Maastricht Treaty the requirements for current programs of the EU action in the field of environmental protection as well as the provisions concerning the financing of environmental activities are set out. The principle of subsidiarity was removed from the environmental articles, becoming one of the general principles of the EU.

Amsterdam Treaty of 1997 introduced several changes to the Treaties establishing the European Union and laid out the foundation for further transformation and development of environmental legislation. Treaty of Amsterdam confirmed the commitment to the principles of «sustainable development», including the questions of environmental protection. In addition, environmental integration has become mandatory for all EU Member States and candidates for the EU accession. For comparison, the Treaty of Nice of 2000, whose goal was to conduct overdue institutional reform in the EU, did not foresee significant changes in the sphere of environmental protection. Currently the EU environmental activity is based on Articles 174-176 of the Treaty on the establishment of the European Union, and also on the basis of Article 95 of that Treaty, which empowers the Union with the harmonization of environmental legislation of the Member States to support the functioning of the internal market. In connection with the mandatory nature of environmental integration in the EU a system of environmental certification (Green Star System) was developed, which was adopted in 1998 at a session of the European Council in Cardiff in the framework of «Partnership for Integration». Energy, transport and agricultural policies of the EU one of the first fell under its

action. Later this kind of integration has spread to the internal market policy development, fisheries, industrial and financial sectors.

Under the scope of legal regulation of environmental protection, which is made by the European Union, fell such measures as environmental standardization, evaluation of anthropogenic and anthropogenic impacts on the environment, collection and processing of the environmental information, state of environment monitoring, environmental certification, environmental management and environmental audit, development of funding mechanism and protection of the environmental rights [5, p. 56].

Therefore, the mid-1990s can be characterized by the release of the environmental policy as one of the priorities of the EU. Moreover, since 1998 the European Commission and the European Council in Vienna (on the 11-12th of December, 1998) have announced the goal of integration of environment protection questions into all policy areas of the European Union. The «horizontal» approach, which guiding principle is to record the full range of industries involved in environmental pollution, started to be used in the EU as part of the EU's environment protection measures.

Fifth stage (2003 – to the present time). Today the environmental activities of the EU are based on environmental competence under articles of the Treaty establishing the European Union. At the present stage the improvement of legal regulation of environmental protection is carried out in the EU.

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In particular, those acts underwent restoration that provide legal base in the system of collection and processing of the environmental information, environmental monitoring, environmental certification, assessment of impact on the environment, mechanism of financing the environmental measures. Also attempts for codification of numerous standards in the sphere of environmental standards and certification are made.

An important element of environmental policy's implementation in Europe is the inclusion of the environmental protection questions in the draft EU Constitution, despite the fact that the EU Constitution draft was rejected by referendums in a number of leading EU Member States.

The European Union is gradually transformed into the «ecological union» since the signing of the Maastricht Treaty. The EU Member States are obliged to integrate environmental protection objectives into the legal acts and regulations, enforced in all policy areas. EU passes numerous directives on environmental protection which the EU Member States must incorporate into their domestic legislature.

Conclusions

Thus, the operation of each European Union institution is affected by the environmental problems. Therefore, the common EU environmental policy can be an example of institutionally mature regional policy, and European experience should be necessarily taken into account to improve the organizational and legal mechanism of regulating land use and land protection in Ukraine.

