ЕКОЛОГІЧНЕ ТА АГРАРНЕ ПРАВО

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GENESIS OF THE INSTITUTION OF ENVIRONMENTAL RIGHTS OF CITIZENS IN MODERN UKRAINIAN LEGAL DOCTRINE: NATURAL LAW APPROACH

The article analyses the issue of establishment and formation of the institution of citizens' environmental rights in modern Ukrainian legal doctrine and legislation taking into consideration natural law approaches; substantiates their determinant, high priority role in the general framework of human rights. It is emphasized that the foundation of construction and the vital principle of environmental law doctrine is a systemic relationship of environmental rights and liabilities including natural rights and liabilities. Natural environmental rights are considered to be a guideline value for adapting environmental legislation of Ukraine to the relevant European and world standards.

Key words: state environmental policy, natural law doctrine, environmental law doctrine, environmental legislation, environmental rights of the individual and citizens, natural environmental rights, environmental liabilities.

Problem setting. The immutable value paradigm for sovereign Ukraine is to ensure fundamental human rights and freedoms including environmental ones. The author, limited by the volume of the article, analyses only the period of establishment of environmental rights starting from the declaration of independence of Ukraine hitherto. Signing of the Association Agreement between Ukraine on the one part and the European Union, the European Atomic Energy Community and its members on the other part (of 27.06.2014) ratified by legal act № 1678-VII of 16.09.2014 opened certain opportunities and provided new standards in various spheres of social life including the legal framework for realization and protection of basic environmental rights of citizens, measures for meeting requirements of environmental safety of the population, as well as environmental protection etc. A significant factor for developing environmental rights of citizens in the scope of speeding up of European integration processes was decree № 5/2015 of 12.01 2015 by the President of Ukraine, which confirmed «the Strategy for sustainable development «Ukraine – 2020» (hereinafter referred to as "Strategy"), whose main objectives are to provide an environmentally friendly sustainable economic growth (this policy line is meant both to overcome the conflict between economic and environmental interests and to define the demand for modes of realization of environmental liabilities as a means of ensuring environmental rights); to ensure a safe environment and access to high quality drinking water, safe food and manufactured products, i.e. to ensure natural environmental rights of citizens. It is absolutely reasonable and clear as long as the approximation of Ukrainian environmental legislation to the legislation of the European Union must reflect objective and primary demands of society in the frame of complex legal regulation of environmental rights of citizens and their interests. However, it is also necessary to keep in mind that the formation of common legal space and EU legal system is a complex, long-term and gradual process, taking into account that according to international obligations the immutable values are the ones that form the basis if the European Union: namely, democracy, respect for human rights and fundamental freedoms as well as rule of law. Domestic scholars face the challenge of further development and perfection of the framework of environmental rights of citizens, which should meet international standards of legal ensuring of these rights taking into consideration the accumulated experience and practice of administration. Hence, the issue of rights and freedoms including environmental ones remains urgent under present-day conditions.

Analysis of recent research and publications. The important theoretical basis for the article is the results of scientific research of representatives of environmental law, land law and others. In addition, some aspects of the legal essence, content, scope of rights and liabilities are

reflected in scientific works by V. I. Andreitsev, H. I. Baliuk, M. I. Vasylieva, A. P. Hetman, S. M. Kravchenko, M. V. Krasnova, N. K.Kobetska, K. V. Medvedieva, T. V. Morozovska, T. V. Nosik, S. R. Tahiieva, Y. S. Shemshuchenko, the author of this article and others. The issue of establishment of the institution of environmental rights of the individual in Ukrainian legislation has been the object of fundamental scientific research of such scholars as A. P. Hetman and V. V. Kostytsky [1; 2].

In the study of the above-mentioned issue we consulted the publications by S. S. Aleksieiev, S. M. Bratus, A. I. Bobylov, A. O. Vasyliev, O. O. Zozulia, O. S. Yoffe, M. V. Karmalita, A. M. Kolodiy, V. V. Kopeichykov, A. Yu. Oliinyk, L. I. Letnianchyn, S. I. Maksymov, M. Y. Mochulska, N. M. Onishchenko, V. F. Pogorilko, P. M. Rabinovych, S. P. Rabinovych, I. V. Semenikhin, S. S. Slyvka, T. M. Slynko, Yu. M. Todyk, S. V. Shevchuk and other scholars specializing in the fields of theory of law, Constitutional law, Civil law, International law etc. dedicated to the studies of the influence of natural law doctrine on the legal status of subjects. Having analyzed scholars' beliefs and views it is expedient to agree with G. L. Lytrvynenko's conclusion that the important role in establishment of the concept of human rights in Ukraine played the works by Ukrainian philosophers such as (Yu. Drohobych, P. Rusyn, S. Orikhovskyi, H. Skovoroda, Ya. Kovelskyi, M. Drahomanov) and theoreticians of Ukrainian statehood (M. Hrushevsky, V. Vynnychenko, O. Kistiakovsky etc.) [3, c. 12]. The complexity of the issue in question requires further scientific investigation as provided by modern conditions.

The objective of research is to carry out a complex theoretical analysis of national scientific concepts concerning the establishment of the institution of environmental rights of citizens taking into account provisions of natural law doctrine and to elaborate science-based recommendations for further development of environmental legislation within the framework of European integration. For achieving this goal it is necessary to fulfil the following tasks: a) to investigate the current national legislation regulating relationships in the field of ensuring environmental rights of communities; b) to analyze scientific approaches for understanding of the natural law doctrine and environmental law doctrine with the end to distinguish their peculiarities and features; c) to reveal specific influence of natural law doctrine on environmental rights and liabilities of citizens, to expose modern relationships that exist between legal instruments and the environment; d) to research conceptual category apparatus used for designating legal definitions of environmental rights.

Taking into consideration the provisions of the relevant issue, the author has used the concepts and approaches of other theories to understand the nature of law for conducting a complete and comprehensive research.

Article's main body. Given the importance of the issue, first of all it is necessary to define the conceptual apparatus. For instance, the term "environmental rights" was first legally fixed in the law of Ukraine of June 25, 1991 "On Environmental Protection", though it does not mean that environmental rights did not exist prior to its adoption. These rights merely had different names and were not arranged in a hierarchical system yet. Article 9 of above-mentioned law includes only the list of environmental rights (the list is far from being overall). In addition, their concepts, characteristic features, realization specifics, protection etc. are not legally defined either.

Later on they were fixed in the Constitution of Ukraine, which proves their significance in the global system of human rights. Fundamental natural environmental rights envisaged by the Constitution are the ingredients of the constitutional law doctrine, and their securing, definitely, encourages the development of environmental law doctrine, the respective branch of law and legislation. The modern constitutional doctrine does not consider natural and positive laws to be antipodes. Its development is affected by the concept of natural law, whose main postulate draws conclusions about the existence of supreme, standing, state-independent norms and principles, which act as the embodiment of reason, justice and objective system of values. This concept is considered to be the basis of constitutional (subjective) rights which are directly transformed into environmental rights. It is important that the Constitution is based on natural law type of law interpretation, whose definition of human rights and liabilities, fixed in universally recognized principles and norms of international law, serve as a criterion of fundamental legal principles for the national system of positive law. These theoretical principles also shape the administration of European justice. Article 50 of the Constitution of Ukraine stipulates: Everyone shall have the right to an environment that is safe for life and health, and to compensation for damages caused by violation of this right. Everyone shall be guaranteed the right of free access to information about the environmental situation, the quality of foodstuffs and consumer goods, as well as the right to disseminate such information. Constitutional securing of these rights indicates their significance, integrity and inalienability, though it does not make other environmental rights less significant, the scope of which includes: the right to private ownership of land (article 14), the right to protect one's life against unlawful encroachments (article 27), which is inseparable from the right to an environment

that is safe for life and health, from the right to a high-quality environment as well as other environmental rights.

Laws of Ukraine "On Protection of the Atmospheric Air", "On Ecological Examination", "On Drinking Water and Drinking Water Supply", "On Ensuring Sanitary and Epidemic Safety of the Population", " On Basic Principles and Requirements for Safety and Quality of Food", "On Consumer Rights Protection", "On the National Biosafety *System* in Creation, Testing, Transporting and Using of Genetically-Modified Organisms", "On the Regulation of Urban Development", "On Access to Public Information" and others constitute environmental rights of citizens or other environmental rights. For instance, article 6 of the law of Ukraine "On Fundamentals of Ukrainian Legislation on Healthcare" defines the right of everyone to healthcare which is related to and ensures: the right to an environment that is safe for life and health; sanitary and epidemic wellbeing of territories and the settlement where the individual lives; safe and healthy conditions of work, education, everyday life and recreation; access to reliable and timely information about his health and the health of the population including existing and potential risk factors as well as risk degree etc.

However, as practical experience shows, the system of environmental rights is expanding thanks to their securing in various subordinate regulatory acts and agreements. Let us consider the issue in detail. For example, according to part 2 article 9 of the law of Ukraine "On Environmental Protection" other environmental rights can be defined by laws of Ukraine, which perfectly agrees with the requirements of part 1 article 92 of the Constitution of Ukraine: namely, "only the laws of Ukraine define the rights and freedoms of the individual and citizen and guarantees thereof; basic rights and responsibilities". The provision presented, undoubtedly, limits the possibility of legal securing of rights. Despite the fact that the objective of the article is not concerned with investigating the legal category "environmental legislation", it is expedient to point out that some scholars consider the concept both loosely and in detail. For instance, some scholars believe that this term has multiple meanings in different legislative acts depending on the significance and specifics of social relationships regulated therein. The term can signify: 1) legislative acts only; 2) legislative acts and other acts enacted by the Supreme Council of Ukraine as well as acts by the President of Ukraine and the Cabinet of Ministers of Ukraine; 3) these also include regulative acts by central bodies of the executive power. The author does not exclude the possibility of existence of other sources (forms) of law.

Unlike domestic laws (securing the right to safe environment), international legislative acts define this right somewhat differently and take a broader view thereof, i.e. as the right to "the environment ensuring the life of dignity and prosperity", "the life in harmony with nature" etc. For the first time the right to life in a favorable environment was secured in the declaration of the United Nations Conference on the Human Environment in Stockholm of 1972, where it was considered to be a fundamental human right, whereas the favorable environment was seen as the environment ensuring the life of dignity. In the declaration this right was rather related to the liability of the individual to protect and improve the state of the environment for the benefit of the current and future generations. Later conceptual ideas of citizens' right to safe environment were reflected in the Final Act of the Conference on Security and Cooperation in Europe of 1975; the Convention on Long-Range Transboundary Pollution of 1979; the Rio de Janeiro Declaration on Environment and Development of 1992; the Vienna Convention on the Protection of the Ozone Layer of 1985; the United Nations Convention on Climate Change of 1992; the Vienna Convention on Civil Liability for Nuclear Damage of 1963; Conventions on Nuclear Safety of 1994; the Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters 1998 and others. However, even in the international acts the interpretation of the term "environmental rights" is missing.

On the other hand, in the works of legal scholarship, particularly in dissertations to be considered, there are a number of conceptual approaches to defining environmental rights of the individual and citizen. First of all, it is expedient to point out that the issues of conceptual category apparatus, conclusions, social conditionality and juridical specifics, classifications, particularities of ensuring and protection, guarantee provisions etc., which have been investigated by jurists, and their conclusions, propositions for improving environmental legislation have meaningful differences as well as certain characteristic features. Given the subject of the article, they are to be the matter at issue. It is necessary to point out that the majority of scholars consider environmental rights to be an integral part of the scope of natural rights. Let us analyze some of them.

As far back as 1972 M.I.Matuzov pointed out the urgency to secure by law and give the legal definition to environmental rights both at the international and national levels in his monograph "Personality. Rights. Democracy. Theoretical issues of subjective law", where he empathized the fact that peoples have the right to appeal to the state authorities to take urgent and efficient measures to protect the land, atmosphere and people from damage, to save the life of the individual [4, p. 10].

In 1976 O.S.Kolbasov in his monograph "Ecology: Political Institutions and Legislation: Environmental Law in the USSR. – Conservation of natural resources " pointed out that the USSR had a wide range of constitutional provisions securing and protecting the rights of citizens to favorable environment [5, p. 87] .

In modern environmental law (having adopted the law of Ukraine "On Environmental Protection" of 1991) citizens' realization of environmental rights, their ensuring, guarantying, safeguarding and protecting were mainly considered in terms of education; only a few rights were elaborately investigated (in particular, the right to a healthy environment (M. I. Vasylieva (The Russian Federation, the USSR) [6], the right to have access to reliable environmental information (T. M. Slynko) [7]).

Though these rights have been the matter at issue for many scholars, the modern Ukrainian law does not apply a universal approach to understanding legal specifics of the term "environmental rights of citizens". The first attempts to define the term "environmental rights" were made in the works by V. I. Andreitsev in 1996. The scholar defines them as the aggregate of legal possibilities and measures meant to satisfy the needs of citizens in terms of the use of natural resources, conservation of natural resources and enforcement of environmental safety. As it appears, the scholar considers these rights as a complex legal category. Moreover, the fundamental basis of environmental rights consists of unalienable, basic, fateful, natural rights common to mankind. The author also proposes to consider them as objective law (the aggregate of norms comprising a complex interbranch institution of environmental law) [8, p. 31–32]. It is notable that later on, the latter statement is further elaborated in the work of M.V. Krasnova, who points out that in the broad sense, the aggregate of legal norms concerned with citizens' environmental rights enables to consider them as a complex interbranch institution of environmental law; when these rights are considered to be subjective, they make up the aggregate of authorities of the individual in the field of environment [9, p. 42].

In 1996 on the level post graduate research, the author was the first in Independent Ukraine to carry out an all-round detailed analysis of the whole framework of environmental rights comprising the institution of environmental law, to provide their classifications, to define safeguards of ensuring thereof [10]. Environmental rights are considered primarily as a subjective category. The PhD research was carried out before the adoption of the Constitution of Ukraine in 1996 on the grounds of its drafts; though the author's abstract took into account the newly adopted constitutional principles of environmental rights. There were considered the concept of "environmental rights abuse" and specific features of their interpretation; it was proposed to define environmental rights as the legally secured aggregate measure of possible environmental behavior concerned with the ownership of natural objects, their use, renewal and conservation of the environment. Based on this, the author states that the legislation provides the individual with certain legal possibilities, which are defined and analyzed [11, p. 11–12].

It is argued that citizens' subjective environmental law is a legal form of realization of their environmental interests based on their environmental needs to be satisfied; there can not be any subjective law beyond these interests. [11, p. 7–8]. The rights in question are considered to be natural, unalienable from activities of citizens [11, p. 9, 15; 10, p. 7, 14–15]. The author also examines the safeguards, the principal forms of protecting and ensuring of environmental rights of citizens [10, p. 128–145]. It is demonstrated in the PhD research that they make up a separate group of subjective rights. The main point is that Ukraine is still facing the active establishment of interbranch institution of environmental law and legislation. Hereby, the author clarified the key approaches as well as legal theory principles such as concept definitions and their place in the environmental law framework etc. The designated findings are of great importance as they laid the foundation for further development of environmental law, which is demonstrated in other scholarly works.

Yet, another PhD research carried out by N. R. Kobetska in 1998 arrives at conclusions made by the authors of the above-mentioned works. The author insists on separating "the rights of citizens related to environmental relationships" and environmental rights of citizens", which is a debatable issue, in our opinion. The latter is a much narrower concept compared with the rights of citizens related to environmental relationships that include citizens' authorities concerned with the environment and natural resources. It should be noted that later on, the environmental law more often used the terms of "environmental rights" and "rights in the field of environment" or "rights concerned with environmental issues", traditionally used in Ukrainian environmental law concept, which we consider to be more precise and correct. The scholar interprets environmental rights as an absolutely new group of citizens' rights, distinguished from earlier defined rights of environmental management by their objective to satisfy environmental needs and interests rather than material, spiritual and esthetic wants. The key point for environmental rights is the opportunity of the individual to use unpolluted natural resources, and live in a safe and healthy environment. The scholar emphasizes that ensuring of environmental rights citizens

is the fundamental and ultimate goal for the state environmental policy. It is these rights that define the content and guidelines for state environmental activities [12, p. 57–58].

It is clear that textbooks, manuals, reference books on protection of citizens' environmental rights published for judges, other practitioners and the public become an urgent necessity [13; 14; 15; 16 and others]; the issues of environmental rights remain one of the principal trends in scientific research. A number of dissertations on ensuring of certain types of citizens' environmental rights as well as the conduct of economic and other types of activities affecting the state and provision of environmental safety are promulgated and defended [17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29 and others]. The above-mentioned aspects comprise only a part of the issue. A number of scientific articles, theses and scientific reports, scientific conferences of different ranking and round table meetings were also dedicated to the relevant topics.

Social relationships in the sphere of implementing and ensuring of environmental rights have been the object of scientific research for practitioners of various branches of legal science including Constitutional law, Administrative law, International law etc. They have been investigated by scholars such as S. G. Grytskevych, Y. V. Dyka, S. V. Storozhenko, Y. A. Lypiy, T. V. Grushkevych, V. V. Bondarenko, Y. G. Parubets, B. M. Gamaliuk [30; 31; 32; 33; 34; 35; 36; 37 and others].

After a short break (in dissertation research defense) in 2012 K. V. Medvediev carried out further scientific investigations on legal theory foundations of ensuring and legal protecting of citizens' environmental rights. By virtue of this research, the author provided the standard legal definition of the concept of citizens' environmental rights on the grounds of their interpretation in objective and subjective sense as citizens' legal opportunities in terms of conservation, renewal and rational use of natural resources and ensuring of a safe environment. The scholar also defined the type and extent of possible behavior, which is to be correlated with the behavior of the responsible individual, and is fixed in the hierarchical system of nominally defined legal norms compulsory for all [38, p. 9–10]. It is considered that such a definition is overloaded with incompatible legal categories, does not provide a definition of (a) essential features necessary for understanding its fully comprehensive content, which determine the concept as such and (b) sufficient features apart from extra characteristics, which do not affect its content, essence and extent, reflecting the essence of legal category. Firstly, it is the illogical structure of the definition that draws attention: namely, the fact that environmental rights are defined as "legal opportunity" and as "the type and extent of possible behavior". It is expedient to analyze relationships of these legal categories with the category of "measure" within environmental law framework. It is necessary to clearly define their relationships, possibility of their compatible usage in formulating environmental law conceptual category apparatus. Secondly, it would be expedient to make a more precise definition of the author's interpretation of "the rational use of natural resources". The scholar unjustifiably avoids revealing the content and essence of the concept of citizens' environmental rights and their extent that were necessary to clarify instead of providing general descriptions thereof.

However, the positive aspects of the work are as follows: K. V. Medvediev defined more accurately the timeline of development stages of citizens' environmental rights in Ukraine. The jurist also substantiated that historic stages of doctrinal legal formation of civil environmental rights in our country in terms of qualitative changes in scientific concepts of citizens' environmental rights and their securing in regulatory acts are divided into the following phases: a) the phase of establishment from 1945 to 1972; b) humanistic phase dated 1972–1992; c) the phase of formation and development of sustainable growth concept from 1992 up to now [38, p. 9, 13–47].

The author has made the first contribution in clarifying of the definition of safeguards of legal protection of environmental rights of citizens; provided classification of safeguards of environmental rights of citizens by specific features and arguments as to their protection. It has also been demonstrated that the right to legal protection of citizens' environmental rights is an independent subjective environmental right being defined as a legal opportunity of citizens realized in protective environmental legal relationships and consists of the ability of the individual to request the enforcement of such a right against the individual who violated a subjective environmental right or environmental interest protected by the law, by the person authorized to take law enforcement measures, rather than a structural element of other subjective environmental rights [38, p. 8–10].

In the scope of the designated topic it is worth considering the work by T. V. Morozovska of 2012, whose objective is to work out efficient trends of development of civil environmental rights in Ukraine and to approximate them to Environmental law in the European Union. For instance: it is proposed to interpret the concept of citizens' environmental rights in domestic environmental legal doctrine exclusively in objective and subjective meanings which are universally recognized in environmental law in the course of many years. In objective sense, it is a complex legal institution which makes up

the framework of legal norms, aimed at regulating relationships between citizens in conservation and protection of the environment as well as in administering of their rational use of natural resources. Moreover, it is necessary to point out that generally recognized institutions of law and legislation have their own distinctive features. In subjective sense, the complex of citizens' rights, which is secured in regulatory norms and enforced by the state, is aimed to satisfy the needs of citizens as for the conservation and protection of the environment and their rational use of natural resources [39]. The latter argument is disputable. First of all, it is related to the usage of the concept of environmental rights defined only by the notion of "need" and its further usage along with such universal categories as environmental rights, interests and their enforcement. Additionally, the notion of needs is as a rule used in resource legislation to characterize the rights to resource use (article 47 of the Water Code of Ukraine, article 23 of the Subsoil Code of Ukraine etc.). The environmental law also uses the term of "vital needs" to define the rights to general use of natural resources, which include esthetic, health, recreation, material rights etc. (part 2 article 38 of the law of Ukraine "On Environmental Protection"). As can be seen, there is the lack of consistency, expediency, concordance and conformity in the usage of certain notions comprising the conceptual category apparatus. Secondly, we should recognize the narrowing of environmental rights legal regulation to conservation, protection and use.

The diversity of scientific views (as demonstrated above) on the topic of research enabled A. P. Getman to draw the conclusion about the formation of an established concept of environmental rights of the individual and citizen, the development of their realization mechanism, the transformation of legal rule into a defined lawful behavior of environmental law subjects, the positive influence of general social factors on its system [40, p. 235]. The above-mentioned proposition is worth supporting. For our purposes, it is of great importance that A. P. Getman and V. V. Kostytskyi consider the extent of environmental rights in the narrow sense as the right to a safe environment, and in the broad sense as the rights to use and renew and conserve the environment [2, p. 181]. Hereby, in the broad sense, the concept of environmental rights should not include the relevant authorities and liabilities as it is done by other scholars [41, p. 229, 236–237]. The authors also empathize that theoretical concepts of inalienable natural human rights made its imprint on the construction of rights of the individual to use, exploit natural resources, to protect them from destruction, damage, contamination and infliction of any other environmental harm. [2, p. 182].

Hereby, the modern environmental law doctrine defines the environmental rights as: (a) the element of environmental relationships; (b) the ingredient of the legal status of the subject; (c) the aggregate measure of possible behavior in environmental relationships; (d) legal opportunities; (e) the type and extent of possible behavior; (f) the aggregate of legal opportunities and means etc.

Taking into account the above-mentioned, we can add that citizens' environmental rights should be considered as the category of subjective rights, established and secured by provisions of law, which are the aggregate measure of possible behavior for ensuring environmental safety, appurtenance of environmental objects, their use, renewal, conservation of the environment, protection of violated environmental rights and interests, which does not contradict the general legislation principles. Furthermore, the basic environmental rights belong to constitutional (fundamental), inalienable, natural rights of citizens. As is generally known, the law provides every individual with the opportunity: to use the environment as the natural habitat suitable for life and relevant to the requirements of environmental safety; to impose on the state, all the legal entities and the individuals their fulfilment of obligations as to the use, renewal and conservation of the environment, the provision of environmental safety; and as appropriate to appeal for protection of his violated subjective right. Citizens' environmental rights are distinguished by their specific features conditioned by environmental factors. The environmental rights take into consideration the laws of nature regulating the development of environmental objects. All the natural objects as a whole comprise the uniform system with its intrinsic differentiation, which explains the natural properties and characteristic features of natural resources. Ensuring of environmental rights is the fundamental task of the state environmental policy.

In the present time the environmental rights are still being formed as the legal and legislative institution, which is absolutely reasonable and justifiable, taking into account the aspiration of Ukraine to join the European legal environment and to meet their standards. Hereby, the environmental law as an independent branch of the national law has a separate institution of environmental liabilities that correlates with the institution of environmental rights based on natural environmental rights. Moreover, the latter as the interbranch legal institution is characterized by the following features: (a) regulating of certain uniform social environmental relationships between subjects; (b) having a specific subject matter for legal regulation; (c) being an essential element of environmental law; (d) enjoying a relative autonomy of aggregate environmental norms; (e) having certain chara-

cteristic principles; (f) having specific legislative constructions etc. Conclusively, in this case it is expedient to talk about the legal institution of citizens' environmental status (or the institution of citizens' environmental and legal status).

It is worth pointing out once again that environmental rights as the institution of legislation are a complex interbranch system of interrelated regulatory injunctions aimed at controlling the relevant system of environmental relationships. As a rule, propositions of law constitute the institution of environmental law, prescribed in a separate section or chapter of the legal act, as in the law of Ukraine "On Environmental Protection" there is section II "Environmental Rights and Liabilities of Citizens".

Proceeding with the detailed and in-depth study of the issue, we can substantiate the determinant, high priority role of environmental rights in the generalized system of human rights. It should be pointed out, for the justice sake, that natural environmental rights are considered as a guideline value for the harmonization of environmental law, its approximation to international standards, the determination of further trends and methods to improve state environmental policy and legislation. The author has already drawn the conclusion that the ongoing reform of environmental legislation and further development of environmental law doctrine are related to the enhanced role of natural law doctrine in establishing of the current national principles of law and state system [42; 43; 44]. Hereunder is the explanation thereof. First of all, it is considered to be a variant of the sectoral law doctrine, its constituent, the theoretical methodology foundation of the legal system as a whole, the source (or form) of environmental law [45].

Additionally, the positivist transformation of natural law into environmental legislation enables to introduce the natural law doctrine into environmental legislation and science of law that affect the formation of environmental rights framework including rights such as: the right to a safe environment; safe and high-quality food, access to environmental information; unimpaired access to natural resources, which are the object of property law for Ukrainian people; the right to possess, use and dispose of their property etc. The meaning of natural environmental rights is related to moral demands comprising so called "moral minimum", which is considered to be the core of natural law by the representatives of the natural philosophy school.

As a result of our scientific investigation we have drawn another conclusion that environmental law doctrine is characterized by systemic relationship of rights and liabilities including natural ones [46; 47]. This is why the correlation between environmental rights and liabilities must be secured as one of the fundamental legislative principles of law. Taking into account the above-mentioned, it should be pointed out that the collocation of (later on to be secured as a legal term) "environmental rights and labilities" as well as peculiarities of their interaction should be considered in further codification of the current environmental legislation, and in the formation of the concept of their further development.

Hereby, it is expedient to propose the author's definition of environmental liabilities, which should be considered as a variant of legal liabilities (the latter are the variant of social liabilities), the type and measure of relevant, legitimate and socially acceptable behavior of the subjects that must be in accordance with provisions of law, injunctions, incentives established by the state and international community (in the framework of human rights standards) with the end to meet the requirements of environmental safety, to establish the belonging of natural objects and complexes, as well as their use, renewal and protection, to ensure citizens' environmental rights and interests, harmonious interaction of nature and community, secured by the legislation and conventions. Moreover, they also represent a means for ensuring environmental rights of citizens, considered to be a coercive measure by presuming that the behavior of the individual must be legitimate (that is to say lawful, legal), must not abuse environmental liabilities. As a whole, legal principles of abuse of environmental rights and liabilities must become a separate subject of scientific research. The essence of environmental liability is that the behavior (actions) must be imperative, unconditional, lawful, proper, which is fixed in accordance with the requirements of the legislation and conventions. Such an intricate interlacement of rights and liabilities of the parties, comprising the content of environmental conventions, conditions the introduction of the rules for defining of general and specialized norms, their relationships and application in the legislation.

Taking into consideration the above-mentioned, we should discuss one more aspect. The issue of natural law characteristics of environmental liability still remains debatable in the national environmental law. The natural law content of environmental liabilities includes: (a) justice determined by natural, biological, cultural factors; (b) inner conscience and guilt similarly based on social, biological aspects of the individual. The extent of environmental law awareness, sufficient understanding of law and conscience are conducive for realization of the individual's own liability. We have demonstrated that environmental rights and liabilities are the result of a compromise between the awareness of natural law and the awareness of positivist law. The fundamental envi-

ronmental rights and liabilities belong to natural inalienable rights, whose vital factors are conditioned by social economic growth, contribute to and require their introduction to matters of legislative regulation and safeguarding on the part of the state, which takes place in the current Constitution of Ukraine and is reflected in environmental law legislative acts.

Thanks to the research we have drawn the following conclusions: (1) environmental rights and liabilities are based on natural law doctrine; (2) every historic epoch has its own views thereof as dynamic legal categories; (3) environmental rights and liabilities demonstrate a dialectical interaction as pair legal categories; (4) they are ensured by the state for the benefit of every individual and all members of society; (5) they are elements of legal relationships; (6) environmental rights and liabilities are significant structural elements of the environmental legal status of the individual and the citizen; (7) they are characterized by correlation; (8) environmental liabilities serve as the measure of rights and safeguard their legal guarantees; (9) fundamental environmental rights and liabilities belong to the natural ones; (10) they are of equal value and importance for society; (11) they have a common goal and task realization.

Conclusions and prospects for development. Taking into consideration the above-mentioned views we can make the following generalizations: environmental rights are considered as a complex environmental legal system secured in the international legislative acts, the Constitution of Ukraine, specialized environmental legislation and the adjacent legislation concerned with human rights; b) they are a complex interbranch institution of environmental law; c) environmental law as an independent branch of law includes not only the institution of environmental rights but also the correlative institution of environmental liabilities; d) fundamental citizens' environmental rights belong to natural inalienable rights provided, as a rule, by the Constitution; they are considered to be of the highest social value as the rights inalienable from life and activities of the individual, regardless of their legal securing; they are protected by the state and correspond the international standards of human rights; e) forms of realization of environmental rights and liabilities must be relevant and correlative. Environmental rights and liabilities constitute the framework, guideline value for further development of the environmental law theory, doctrine, policy and legislation. It is our strong belief that during further codification of environmental legislation in the Environmental Codex of Ukraine it is expedient to provide a separate section (or chapter) for environmental rights and liabilities of the individual and the citizen (or a section for citizen environmental status) that will have articles devoted to their system, the detailed analysis of each right, the legal mechanism of their realization, protection and safeguarding. It is expedient to give the definition of environmental rights and liabilities in section 1 (or chapter 1) titled "Principal Terms", article 1 "Fundamental Terminology Definition". It would be useful to fix in the Codex the category of "environmental interest", its varieties (public and private) as the object of legal protection. Under current conditions it is necessary to make changes and amendments in the law of Ukraine "On Environmental Protection" using the proposed findings and conclusions.

SOURCES:

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ГЕНЕЗА ІНСТИТУТУ ЕКОЛОГІЧНИХ ПРАВ ГРОМАДЯН У СУЧАСНІЙ УКРАЇНСЬКІЙ ЮРИДИЧНІЙ ДОКТРИНІ: ПРИРОДНО-ПРАВОВИЙ ПІДХІД

У статті проаналізовано питання становлення та формування інституту екологічних прав громадян у сучасній національній юридичній доктрині та законодавстві з урахуванням природно-правових підходів, доведено їх визначальне, пріоритетне місце в загальній системі прав людини. Наголошено, що підґрунтям для розбудови та основоположним принципом еколого-правової доктрини є системний зв'язок екологічних прав та обов'язків, у тому числі й природних. Природні екологічні права розглянуто як ціннісний орієнтир при адаптації екологічного законодавства, його наближенні до європейських та світових стандартів.

Ключові слова: державна екологічна політика, природно-правова доктрина, еколого-правова доктрина, екологічне законодавство, екологічні права людини та громадян, природні екологічні права, екологічні обов'язки.

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ГЕНЕЗИС ИНСТИТУТА ЭКОЛОГИЧЕСКИХ ПРАВ ГРАЖДАН В СОВРЕМЕННОЙ УКРАИНСКОЙ ЮРИДИЧЕСКОЙ ДОКТРИНЕ: ЕСТЕСТВЕННО-ПРАВОВОЙ ПОДХОД

В статье проанализированы вопросы становления и формирования института экологических прав граждан в современной национальной юридической доктрине и законодательстве с учетом естественно-правовых подходов, аргументировано их определяющее, приоритетное место в общей системе прав человека. Отмечено, что центральным элементом и основополагающим принципом эколого-правовой доктрины является системная связь экологических прав и обязанностей, в том числе и естественных. Естественные экологические права рассмотрены в качестве ценностного ориентира при адаптации экологического законодательства, его приближения к европейским и мировым стандартам.

Ключевые слова: государственная экологическая политика, естественно-правовая доктрина, эколого-правовая доктрина, экологическое законодательство, экологические права человека и граждан, естественные экологические права, экологические обязанности.

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