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Features of the implementation of Ukraine's environmental policy at the local level

Cechy realizacji polityki ekologicznej Ukrainy na poziomie lokalnym

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Streszczenie

W artykule zauważono, że pojęcie „polityki środowiskowej” jest często używane w przepisach, ale jego treść nie jest ujawniana. To decyduje o znaczeniu badań naukowych w tej dziedzinie. Artykuł poświęcony jest badaniu istoty i specyfiki realizacji polityki ekologicznej Ukrainy na szczeblach lokalnych. Analiza polityki środowiskowej przez pryzmat charakteru prawnego administracji publicznej w zakresie ochrony środowiska pozwala na podział jej kierunków i poziomów realizacji. Realizację polityki ekologicznej państwa w terenie realizują jednocześnie trzy systemy: system samorządów lokalnych i ich organów wykonawczych, system samorządowej administracji państwowej oraz system terytorialnych organów wykonawczych w zakresie zarządzania środowiskiem. Podmioty tych systemów współdziałają na zasadzie koordynacji i podporządkowania oraz posiadają szerokie uprawnienia w zakresie zarządzania środowiskiem na swoich terytoriach.

Badania komponentu środowiskowego na poziomie lokalnym są nierozzerwalnie związane z rozwojem w kierunku bezpieczeństwa ochrony środowiska regionu i państwa. Z pojęciem polityki ekologicznej sąsiaduje pojęcie administracji publicznej: w sferze środowiska, zarządzania przyrodą, zasobów naturalnych, ochrony środowiska. Pojęcia „zarządzania środowiskiem”, „zarządzania środowiskiem i gospodarką”, „działalności środowiskowej” i inne są również powszechne wśród naukowców.

Słowa kluczowe: ekologia, polityka środowiskowa, administracja publiczna, zarządzanie środowiskiem, akty prawne

Abstract

The article notes that the concept of “environmental policy” is often used in regulations, but its content is not disclosed. This determines the relevance of scientific research in this field. The article is devoted to the study of essence and substance, the specifics of the implementation of Ukraine’s environmental policy at the local levels. Environmental policy analysis through the prism of the legal nature of public administration in the field of environment allows the division of its directions and levels of implementation.

The realization of state environmental policy on the ground is implemented simultaneously by three systems: the system of local councils and their executive bodies, the system of local state administrations and the system of territorial executive bodies in the field of environmental management. The subjects of these systems interact on the basis of coordination and subordination and endowed with broad powers in the field of environmental management within their territories. Research of the environmental component at the local level is inextricably linked with developments in the direction of environmental protection security of the region and the state. Adjacent to the concept of environmental policy is the concept of public administration: in the environmental sphere, nature management, natural resources, environmental protection. The concepts of “environmental management”, “environmental and economic management”, “environmental activities” and others are also common among scientists.

Keywords: ecology, environmental policy, public administration, environmental management, legal acts

Introduction

The local level in the environmental protection system includes local governments, local state administrations and territorial subdivisions of the relevant central executive bodies. All these institutions have different status, which grants them powers in the field of environmental protection and, accordingly, the ability to implement state policy in the field of environmental protection. Research of the environmental component at the local level is inextricably linked with developments in the direction of environmental protection security of the region and the state.

The effectiveness of measures, forms and methods to achieve this security is determined by forecasting and assessing environmental risks at the level of the territorial community, city and region. Objective identification of existing and potential threats, establishing their nature and possible consequences is key to planning legal, organizational, managerial and economic measures to prevent or respond to adverse negative environmental results.

The essence and understanding of environmental policy (public administration perspective)

Taking into account the world experience of state environmental policy, D. Vetvytskii concludes that the state environmental policy is a set of tools and measures aimed at society and the state to protect and rehabilitate the environment, effectively combine nature and nature protection and ensure normal life, which has two dimensions, in particular regulatory¹.

Researcher N. Malysh considers environmental policy as a set of tools and measures related to the impact of society on nature and aimed at ensuring environmentally balanced development and civilization. According to the author, environmental policy should be understood as a coordinating basis that forms and sets in motion the resources of the enterprise (organization) to achieve goals in the field of environmental management, environmental protection and environmental security through political, economic, legal, educational and other activities². O. Myahchenko believes that the state environmental policy is a system of measures related to preventing the negative effects of society on nature³.

In the normative aspect, the scientist V. Hlukha considers environmental policy, in particular, as a set of international, state and regional legal acts, instructions and standards that bring the general legal requirements to each object and ensure its interest in implementation and harmonization. Only if all of these components correspond to each other in content and pace of development, i.e. constitute a single system of environmental protection, will success be achieved⁴. E. Khlobystov, L. Zharova, M. Iliina in their works emphasize that modern environmental policy at the local level is formed in the context of accelerating global and regional political, socio-economic processes.

Further progress will not reduce anthropogenic pressure and improve the environmental situation. Development processes will be determined by the speed and unpredictability of environmental consequences. Socio-economic development, according to research, will be characterized by political instability and a tendency to imitate existing development models in other countries.

The above requires modern environmental policy to follow the basic tenets of sustainability development, flexibility and, most importantly, in our view, systematic implementation and the ability to make adjustments in response to external and internal challenges. Adjacent to the concept of environmental policy is the concept of public administration: in the environmental sphere, nature management, natural resources, environmental protection. The concepts of “environmental management”, “environmental and economic management”, “environmental activities” and others are also common among scientists.

¹ D.O. Vetvytzyk, *Rozvytok derzhavnoyi ekologichnoyi polityky Ukrainy v umovax globalizatsiyi*. Extended abstract of candidate's thesis, 2010.

² N.A. Malysh, *Efektivni mexanizmy formuvannya derzhavnoyi ekologichnoyi polityky: monografiya*, 2011.

³ O.P. Myagchenko, *Osnovy ekologii: pidruchnyk*, Centr uchbovoyi literatury, Kyiv 2010.

⁴ V.V. Hlukha, *Teoretychni zasady rozvytku derzhavnoyi ekologichnoyi polityky Ukrainy. Derzhavne upravlinnya*, „Public administration” 2016, Vol. 1(53), pp. 11–15.

According to L. Melnyk and M. Shapochka, state management of nature management is a state activity aimed at organizing the sustainable use and reproduction of natural resources, environmental protection, as well as ensuring legality in environmental and economic relations⁵. O. Lazor points out that management in the field of ecology and natural resources refers to society's impact on the environment, in particular on its protection, sustainable use and reproduction. Management, as a process in the field of ecology and natural resources, refers to the legitimacy of the relevant institutions – state, self-governing and public – performing certain functions, namely: legislative, organizational and administrative, coordination, representative, control, etc.⁶

V. Tyun discusses the principles implementation by local self-government bodies of the state environmental policies. These include⁷:

- the priority of global and national interests in the field of environmental protection and the use of natural resources, as well as taking into account the interests of the regions, districts, cities, towns and villages;
- the need to stimulate the efforts of local communities to ensure their own environmental development, provides a system of incentives and incentives for communities to pursue effective environmental policies, ensure fruitful cooperation with businesses, the public to achieve a common goal – sustainable development of environmental protection;
- the privileging of the latest technologies in economic and other activities;
- the responsibility of the state and heads of state authorities for influencing the development of the country and the environmental situation in cities;
- the obligation to comply with environmental laws to harmonize the coexistence of man, society and nature;
- the importance of combining of environmental, social and economic components in the implementation of economic, innovative and other activities;
- the need to introduce of resource-saving, environmentally friendly safe, low-waste and non-waste technologies in the field of urban economics;
- the necessity of ensuring the separation of powers between executive bodies – assignment to the body appropriate powers means a ban not only on going beyond them, but also on interfering with other bodies;
- the improvement of ecological culture, education will promote better awareness of the importance of environmental solutions to ensure sustainable development, will improve the interaction of the public community and public authorities' management;
- the development of mechanisms of financial support of nature protection activity of cities.

Environmental policy can be defined as a set of measures carried out by the state or supranational entity and directed towards environmental protection, conservation and restoration of natural resources, the introduction of waste-free and low-waste, environmen-

⁵ L.G. Mel'nyk, M.K. Shapochky, *Osnovy ekologii: pidruchnyk Universytetska knyha*, 2007.

⁶ O.Y. Lazor, *Derzhavne upravlinnya u sferi realizaciyi ekologichnoyi polityky: monografiya*, L'viv 2003.

⁷ V.M. Tyun, *Administratyvno-pravovi zasady naglyadovoyi diyal'nosti pravooxoronyx organiv Ukrainy u sferi oxorony pryrody*. Candidate's thesis, 2016.

tally friendly technologies, the development of environmental education and upbringing, environmental legal protection systems to ensure optimal conditions for nature.

Components of environmental policy in a democratic society include proper and effective system of public administration in the field of protection, inexhaustible use and reproduction natural resources; proper state and public oversight and reproduction of natural resources; proper state and public supervision of compliance with current environmental legislation and the country's international environmental obligations; due environmental information policy; appropriate level of environmental examination of environmentally hazardous projects; a proper system of making government decisions on environmental issues, which would provide for mandatory public involvement; a proper system responsibility of the government, specific officials and citizens for violation of the principles of balanced development, norms and regulations environmental legislation; proper education and training activity.

Practical significance of the implementation of environmental policy at the local level

The implementation of environmental policy on the ground is of particular practical importance, because it is on the ground that environmental problems and sources of potential environmental risks arise and where local authorities take priority measures to address them. In addition, policy should be formed on the basis of local environmental monitoring and state environmental policy in general.

A number of problems and decisions are caused by activities carried out at the local level. Local authorities build and operate communal infrastructure – drinking water systems, sewerage, etc.; carry out control for the construction of housing and industrial facilities; establish local norms of environmental protection; form a share of the environmental fund etc.

To solve environmental problems many subjects of social relations are affected, each of which operates within the powers defined by law, and which together constitute a system of socio-state regulation of environmental protection at the local level⁸. The principles, directions, subject structure and ways of realization of the state ecological policy, the corresponding powers at the international, national and other levels need separate independent research. It should be noted that the current legislation in this area is somewhat outdated.

This applies, in particular, to the Main Directions of the State Policy of Ukraine in the Field of Environmental Protection since 1998, although the purpose of environmental measures has been determined and plan for their implementation until 2020, and provided an assessment of the environmental situation in Ukraine as in 1998.

We agree that the National Strategy for Environmental Policy until 2030, the National Waste Management Strategy for 2017 and the plan for the implementation of the Associa-

⁸ *Osnovni napryamy derzhavnoyi polityky Ukrainy u galuzi oxorony dovkillya, vykorystannya pryrodnykh resursiv ta zabezpechennya ekologichnoyi bezpeky Postanova Verkhovnoyi Rady Ukrainy vid № 188/98-VR, "Vidomosti Verkhovnoyi Rady Ukrainy – Information of the Verkhovna Rada of Ukraine" 1998, 38, art. 248.*

tion Agreement with the EU in terms of environmental protection are not being implemented. The Government has not prepared the necessary bills in the field of environmental policy, on the natural environment or created a national system to monitor air quality. The inaction of state bodies has resulted in illegal deforestation, amber mining, uncontrolled emissions into the atmosphere and discharges of pollution into water bodies continues. Funding for environmental measures at the state and local levels has been reduced, etc.⁹

The Sustainable Development Strategy until 2030 has not yet been adopted as a basic document in the field of environmental policy, which, of course, will negatively affect its effectiveness in general. Along with the principle of sustainable development, the main principles of modern state environmental policy are:

- taking into account environmental requirements when adopting management decisions and legislation development;
- forecasting environmental risks and prevention;
- the inevitability of liability for violations of environmental legislation;
- “the polluter must pay”;
- encouragement by the state introduction of environmental technologies, intersectoral partnership and expansion forms of communication;
- the principle of reliability of environmental information;
- the constitutional principle of ensuring environmental safety and maintaining ecological balance on the territory of Ukraine.

The implementation of environmental measures by local self-government bodies and local executive bodies should also be carried out openly, publicly and accountably. To this rather extensive list should be added the principle of respecting the environmental rights of citizens and preventing environmental damage.

Of particular importance for local level of implementation of state environmental policy has the principle of public participation, which can be done by creating public environmental organizations, public councils at government bodies, holding public hearings, submission to the authorities of collective appeals on environmental issues, conducting public environmental expertise and more. The involvement of the public through various constitutional and legal forms in the adoption of regulations contributes to a more balanced development of environmental policy at the local level and regional levels¹⁰.

The principle of international cooperation has significant potential for local environmental governance, as it allows for the involvement of international specialists and additional funding for environmental projects of local significance¹¹. The following areas of international cooperation are relevant for territorial communities: energy saving, renew-

⁹ *Eks-ministr ekologiyi nazvav usi provaly novoyi vlady v ekopolityci. Ekoprostir-Ecospace*, 2020, <http://ecoprostir.com/2020/05/20/eks-ministr-ekologiyi-nazvav-usi-provalynovoyi-vlady-v-ekopolitytsi/>.

¹⁰ V.F. Nesterovych, *Ponyattya form vplyvu hromads'kosti na pryynyattya normatyvno-pravovyykhaktiv. VisnykLuhans'koho derzhavnoho universytetuvnutrishnikh sprav imeni E.O. Didorenka*, “Scientific Bulletin of Lviv State University of Internal Affairs. Legal series” 2016, No. 2, pp. 14–22

¹¹ V.F. Nesterovych, *Konstytutsiino-pravovi vydy hromadskykh obhovoren. Visnyk Luhanskoho derzhavnoho universytetu vnutrishnikh sprav imeni E.O. Didorenka*, “Bulletin of Luhansk State University of Internal Affairs named after E.O. Didorenko” 2018, No. 4, pp. 38–45.

able energy, waste management, protection of water bodies, environmental education and more¹². The legal basis of such cooperation are signed letters of intent, memoranda of cooperation or agreements on participation in the relevant project.

The legal basis for the implementation of environmental policy on the ground, in addition to those above include the Constitution of Ukraine, the Law of Ukraine “On Local Self-Government in Ukraine” № 280/97-VR of 21.05.1997, the Law of Ukraine “On local state administrations” № 586-XIV of 09.04.1999, Law of Ukraine “On Environmental Protection” № 1264-XII of 25.06.1991¹³.

Local governments as subject to environmental protection policies represented by local councils, their chairmen and executive committees. Their powers in the field of environmental protection are primarily enshrined in Law of Ukraine “On Local Self-Government in Ukraine” № 280/97-VR of 21.05.1997 and can be classified according to sectoral criteria (environmental policy areas) and the legal nature of powers (self-governing and delegated).

Thus, the system of local councils and their executive bodies ensures the implementation of state environmental policy by making decisions on issues related to such areas:

- economic and environmental regulation of land and other natural resources;
- environmental protection;
- ensuring access to environmental information;
- waste management;
- ensuring the conservation of biodiversity;
- environmental control role;
- coordination of environmental management.

The delegated executive power committees of local councils coordinate local bodies responsible for land resources and foster coordination in the relevant territory of the activities of the specially authorized state management bodies for nature protection¹⁴.

The chairman of the village, settlement, city council ensures the implementation of the powers delegated to the executive committee of the council in the field of environmental management, organizes work of the council and its executive committee, signs their decisions, provides training for consideration by the council of local environmental programs, represents the territorial community, the council and its executive committee in relations with other local governments, public authorities, legal entities and individuals, as well as in international relations, including those relating to environmental measures¹⁵.

The executive authorities implement the state environmental policy on the ground through local state administrations and territorial bodies of central executive bodies. For

¹² V.F. Nesterovych, *Hromads'kist' yak sub'yekt vplyvu na pryynyattya normatyvno-pravovykh aktiv: arhumenty «za» ta «proty»*. *Naukovyy visnyk L'vivs'koho derzhavnogo universytetu vnutrishnikh sprav*, “Scientific Bulletin of Lviv State University of Internal Affairs. Seriya yurydychna” 2014, No. 1, pp. 92–101.

¹³ *Pro oxoronu navkolyshn`ogo pryrodnogo seredovyshha. Zakonu Ukrainy № 1264-XII vid 25.06.1991*, “Vidomosti Verkhovnoyi Rady Ukrainy – Information of the Verkhovna Rada of Ukraine” 1991, 41, art. 546.

¹⁴ *Na mezhi katastrofy. Pyat` najbil'shyx ekologichnyx problem Ukrainy*, “Ukrayins'ka Pravda – Ukrainian Pravda”, 2019, <https://www.pravda.com.ua/articles/2019/10/22/7229683/>.

¹⁵ K.V. Xlabystova, O.O. Gulak, *Pryncypy upravlinnya vidxodamy ta resursamy u krayinax YS*. *Naukovi zapysky Instytutu zakonodavstva Verkhovnoyi Rady Ukrainy*, “Scientific notes of the Institute of Legislation of the Verkhovna Rada of Ukraine” 2019, No. 5, pp. 46–52.

these purposes, they are endowed with special competence by the Law of Ukraine “On Local State Administrations” № 586-XIV of 09.04.1999, Law of Ukraine “On Environmental Protection” № 1264-XII from 25.06.1991, the relevant provisions on territorial bodies, approved by the central executive bodies and other regulations.

The implementation of environmental policy and protection of the environment at the local level are the main tasks of the executive authorities in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, districts, districts in cities, cities of regional significance. These bodies are accountable to and under the control of the respective central executive bodies. Thus, the State Ecological Inspectorates of oblasts and districts are territorial bodies of the State Ecological Inspectorate of Ukraine, which perform its tasks on the respective territory and are subordinated to it.

Despite the multifunctionality and diversification of local environmental actors, their activities are not effective. In particular, among the problems of implementation of the state environmental policy in Ukraine, scientists identify:

- lack of delimitation of nature management and control of the state of the environment; partial suspension of Kyoto Protocol procedures;
- comment on the implementation of the Aarhus Convention;
- lack of a system of environmental education and environmental safety;
- informing experts and the public on environmental issues;
- lack of systematic monitoring of the state of the environment on the basis of modern technologies;
- problems with assessing the radiological situation as a result of the Chernobyl accident;
- problems of reconstruction of the infrastructure of housing and communal services of settlements, first of all large, in cities;
- problems of state regulation in the field of waste management;
- problems of the system of regulation of pollutant emissions into the atmosphere and water management;
- problems of land degradation and desertification;
- destruction of natural recreational resources; problems of systems of accounting and control of reporting of economic entities of various forms of ownership on environmental and economic indicators¹⁶.

Conclusions

Most of the outlined implementation problems concern a specific environmental problem or risk and are a result of inefficient environmental management. The implementation of the state environmental policy on the ground is carried out simultaneously by three systems: the system of local councils and their executive bodies, the system of local state administrations and the system of territorial executive bodies in the field of environmental management. The subjects of these systems interact through relations of coordination

¹⁶ N.V. Kaminska, I.S. Kunenko, A.I. Kaminskyi, *Ekolohichne Pravo*, Navchalnyi posibnyk, Dakor 2013.

and subordination and are endowed with broad powers in the field of environmental management within the territories of their location. Significant problems in this area and their causes are the lack of power (legislative and executive) and the lack of awareness of the scale and consequences of the environmental situation in Ukraine, the lack of an environmental strategy, goals and results policy.

The issue of environmental protection and the sustainable use of nature is not a priority for the state. The state often ignores non-implementation of environmental programs at all levels and the deterioration of the environmental situation. It is urgent government officials should be held to account for violations of environmental law and the associated violations of environmental human rights.

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