

## **Strengthening the Ecological Security of Ukraine**

In contemporary states ecological security isn't a matter of individuals, as actions in favour of the environmental protection are in the range of cases assigned to the official authority. Therefore it is the official authority which is responsible for organising action and means in order to ensure the ecological security of the country. This requires the comprehensive look and the rational decision making and developing appropriately assigned objectives of the civil service which can be connected here with creating new institutions. Ensuring the optimum ecological security is inseparably associated with the adherence to the principles of the environmental protection, where the law is a crucial instrument of ensuring ecological security.

**Key words:** environmental law environmental pollution, environmental damage, environmental safety, Ukraine.

**Formulation of Scientific Problem and its Meaning.** Amongst global problems of mankind of the 21st century, environmental protection plays a major role. Through the environmental protection one understands undertaking or discontinuing action, enabling to keep or restoring the balance of nature necessary to assure contemporary and future generations with beneficial living conditions and possibility of exercising the right to use resources of the environment and to keep it values [1, p. 27–28]. Consequently by the balance of nature the interaction of the man one understands elements of the flora and fauna and the arrangement of habitat conditions formed by elements of geological features. Applying protective actions for the environment is aimed at making efforts and activities which in particular rely on: the rational forming of the environment and the management of stores of the environment, according to the principle of the sustainable development; for counteraction for pollutants; for restoring natural elements the competent state

**The Basic Material and Justification of the Results of the Study.** Taking action as for the environmental protection fundamentally results from the duty of the official authority for protecting the environment. Ukraine described the duty of assuring safety and environmental protections of the country and keeping the ecological balance in the Constitution in Art. 16, and in addition Art. 50 which refer to core rights of the individual, stating that everyone has the right to stay in the environment safe for life and health. Moreover at present taking up the subject of reinforcing the ecological security of Ukraine results also from social, political and economic debate in this area [2]. It requires providing the ecological security of the country on the part of official authorities. Talking about the ecological security one should on one side take into consideration keeping the individual in the face of the environment shown with duty regulated by environment protection laws which determines appropriately regulations or responsibilities.

On the other side, though ecological security can be defined as the element of applying by official authorities statutory instruments ensuring the subjective right to the environment and the right to a safe living in the natural environment [3, p. 49]. In the special one should emphasize here that determining optimal conditions of the health of people by the evaluation of their exposing to the detrimental action of pollutants and elaboration of principles of prevention for effects of biological, chemical and physical pollutants in the environment are a purpose of the ecological security [4, p. 55]. One should also remember here that the ecological security includes action aimed at a lot of fields of the, economic and political social life which can have environmental impact [5, p. 6–50].

Taking considerations in the environmental protection one should explain the term «principle». In the general perspective principle is above all legal norms about the primary importance for the entire law or its individual branches, if necessary general clauses «taken out ahead of the bracket» in order to serve the entire law or entire branch (...) it is possible to say about 'principles' as about rules or generalizations of norms created by doctrine, or about patterns of the behaviour which aren't normalised by the law, but are being regarded as binding. [6, p. 98–99]

Principles of law may appear in the following version: descriptive – where they are statements registering regularities in the way of conduct of the state; scratching regularities with the manner of of normalizing the determined real or even well-thought-out legal institution, or simply constitute the description of such institutions; appraising – principles are expressing the approval or the disapproval of determined goods, phenomena, social situations; directive one – principles are binding norms of conduct or

potentially acceptable as binding norms [7, p. 57]. Most generally 'principle' refers to determining the desired state of affairs, pointing simultaneously at directions legally acceptable or due action or the activity.

The particular role of principles of the law consists in it that: they appoint direction of legislative action, what states of affairs show the legislator should achieve by making law and what values in the legislative process not to disturb, as well as show the surest ways of forming provisions of law; direct the process of interpretation of provisions of law; show the directions of applying the law; direct the way of making use of laws different, being entitled to the described entities [8, p. 188]. It is possible to notice the division of principles into general principles and detailed principles [9, p. 43]. For such a fundamental division science gave the base, to the purpose of simpler understanding legal phenomena, which occur in the civil service, in the process of administering and in very administrative law as the system of norms [10, p. 98]. Distinguishing the general rules points to acceptable legal acts or action for clarifying them with detailed principles.

And so principles are aimed at appropriate understanding, organising, pointing, ordering and preservation of acceptable defined actions or the activity. Principles resulting from the system of law formulate the catalogue of the appropriate, right and responsible behaviour. Everything results from the scope of creating, applying and interpretations of provisions of the law which rely on social, political and economic life. However it is also dependent on the social awareness, the sensitivity and a sense of responsibility for taken action.

Amongst fundamentals of the environmental protection which are essential to preserve the ecological security one should mention the principle of prevention, the principle of caution, the principle «polluter pays» and the principle of the sustainable development. An essential premise of the principle of the prevention for pollutants and the damage in the environment is a counteraction and preventing. This principle appoints action, whose purpose is preventing the damage in the environment. This principle should have also its relation to activity entities acting out on the environment. What's more the principle of the prevention should oblige these entities to include protection requirements still before undertaking activity for the application of methods and the technologies most beneficial for the environment [11, p. 124].

The principle of prevention in international documents for the first time appeared in the distinct way at the so-called declaration from Nairobi from 1982 which showed that preventive action in the environmental protection should have priority over an obligation of the compensation for loss, and it should be carried out already in the course of planning of action potentially provoking the environmental damage [12, p. 79]. Concluding one should point out that prevention requires the earlier risk assessment of negative influences in the support of universally available knowledge and experience. A principle of the caution is associated with the principle of the prevention, which principle emphasizes that forbidding conducting such activity as a result of which there can come to the damage in environment, before its initiation.

There can also come here to limiting conducted activity, if one thinks here about possibility of the appearance of the environmental damage. In the catalogue of fundamentals of the ecological security it is worthwhile to underline «the polluter pays» principle. This principle allows for applying by the civil service of instruments of action, such as norms and payments. Of course, in the special way one should here refer to three groups concerning norms:

- qualities of the environment, where permissible levels of impurities or nuisance are appointed, and after crossing them appointed penalties are inflicted;
- of products, where levels of impurities or nuisance are specific and they concern composition or the values of emission caused by the product; also taking back to the property or product features, as well as appointed conditions or test examinations, or proper packing of the product or it tagging;
- of technologies which refer to permanent installations, where one should observe emission standards (which levels of impurities and nuisance are described, and which should not be crossed during the use of permanent installations), of norms of designed installations (establishing conditions which must be fulfilled while designing and construction of permanent installations), norms of the use (which conditions which are required during the use of permanent installations are formulated) [13, p. 429].

The duty of applying of permissible norms must be settled legally and should be subject to a ruthless, current control. Here also with policy instruments of the environmental protection, such as payments and taxes, applied accordingly to the size of emitted pollutant means are being taken in favour of effects of the conduct of ecological operations. Payments can be supposed to fulfil also two functions: simulative (to

encourage the perpetrator taking such preventive measures which pollutants caused by him will be reduced to a minimum), redistributive (inducing the perpetrator for incurring costs which fall to it as part of «together taken» action) [14, p. 429]. Simultaneously this principle refers for charging the perpetrator for the environmental pollution. As for the principle it must oblige the perpetrator to incur costs of the caused damage in the environment and its repairing. Along with the economic development great significance is ascribed to principle of the sustainable development. Concept of sustainable development appeared along with recognizing environmental costs of the development threatening the living conditions. The sustainable development is based on economic and social processes which ensure the improvement of quality of the human life. Ruthless here is an element of natural environment which at the application of rule of the sustainable development is integrating the environmental protection with the development of not only social, but also cultural and civilization economic processes. Here taking action for preventing of coming into existence of threats at their source is a main message. One should remember here about taking action so that in the town-and-country planning it doesn't function for upsetting the natural balance of ecosystems, where the duty of considering the principle of the sustainable development in the town-and-country planning must be constantly preserved [15, p. 8–12].

Here we are dealing with the eco-development which is possible to be defined as desired socially, justified economically and acceptable ecologically which should realize three basic aims: is supposed to be just for everyone on the Earth; is supposed to be just for future generations; is supposed to be just towards extraterrestrials [16, p. 9–18].

Sanctioning in the law above presented principles and creating the control of applying them will gain the special significance for reinforcing the ecological security of Ukraine. Of course presented principles don't constitute the closed catalogue required for ensuring the ecological security; however they should be a foundation in the formation process, of applying and interpretation of provisions of the ecological law. One should moreover seek effective methods of implementation of presented principles which of course are already being carried out in many regions of Ukraine [17].

However these principles require bigger and more universal applying and more effective control mechanisms of following them. Lack or insufficient following them can cause ecological losses by which one should understand as socially unnecessary consuming manufacturing factors in the result of the irrational management or natural disasters which they embrace, including connected with consuming manufacturing factors: material, human means, richness of the environment, absence of the economic effect, as well reducing expected benefits, i.e. limiting economic effects as a result of operating in the polluted environment. It is possible fundamentally to divide these losses in two groups:

– economic losses, i.e. the damage manifesting itself in money which is possible to be divided into as follows: biological losses coming into existence in the natural environment (e.g. losses in the productivity of forests, or yields in the size won over as a result of the air pollution); losses of raw materials and materials in industrial processes (e.g. as a result of the lack of methods of returning to metallurgical productions of waste, the loss of the warmth and the energy in sending it); losses in the non-current assets - a corrosion which on contaminated areas is shortening the life cycle of means of transport, machines and buildings, causes the greatest damage of energy network;

– social losses – deadweight losses, measurable and immeasurable damage in the living conditions, to which it is possible to include: losses as a result of the loss of one's health – the increase of the sick leave causes reducing in the production; losses as a result of the decline of places of the recreation; losses resulting from lack of aesthetics of the environment (unattractive houses, pile of rubbishes, dirt and the noise are leading to worsening a sense of well-being, restricting the initiative, impoverishing the human relationships; the bad quality of the environment has its social and psychological effects which in the direct way can influence reducing the work output).

**Conclusions and Perspectives for Further Researchs.** Presented above principles should constitute the base of the ecological security for everyone in Ukraine. They must clearly and explicitly be formulated and they must directly result from regulations - of important instrument of the environmental protection. One should in particular in the clear way point, when being guided by a principle of the caution one should take preventive conceivable means in order to look after the ecological security of Ukraine. A greater and wider reflection in environmental law must have this overtone what certainly will require employing people and centres for reinforcing the ecological security of Ukraine.

*Sources and Literature*

1. Stochlak J., Podolak M. Ochrona środowiska w Polsce. Studium prawno-politologiczne / J. Stochlak, M. Podolak. – Lublin 2006. – S. 27–28.
2. Uriadowy Kurier. – No 129–130. – 13.VII.1996.
3. Korzeniowski P. Bezpieczeństwo ekologiczne jako instytucja prawa ochrony środowiska / P. Korzeniowski. – Łódź, 2012. – S. 49.
4. Korzeniowski P. Zasady prawa ochrony środowiska / [w:] M. Górski, A. Barczak, D. Jakubowska, A. Jaworowicz-Rudolf, A. Kaźmierska-Patrzyzna, J. Kierzkowska, J. Miłkowska // Prawo ochrony środowiska. – Warszawa, 2009. – S. 55.
5. Zob. M. Pietraś: Bezpieczeństwo ekologiczne w Europie / Zob. M. Pietraś. – Lublin 2000. – S. 6–50.
6. Zimmermann J. Prawo administracyjne. – Kraków, 2005. – S. 98–99.
7. Ziemiński K. Zasady ogólne prawa administracyjnego, seria prawo nr 128 // Poznań 1989. – S. 57.
8. Wronkowska W. System prawny a porządek prawny i ład społeczny / [w:] W. Wronkowska, Z. Ziemiński // Zarys teorii prawa. – Poznań, 2001. – S. 188.
9. Ziemiński K. Zasady ogólne ...op. cit., s. 43.
10. Zimmermann J.:Prawo...op. cit., s. 98.
11. Górski M. Ochrona środowiska jako zadanie administracji publicznej / M. Górski. – Łódź, 1992. – S. 124.
12. Deklaracja Rady Zarządzającej UNEP z dnia 18 maja 1982 r.; H. Hochmann: Praeventive Rechtspflichten und prinzipien des modernen Umweltvoelkerrecht. – Berlin, 1992. – S. 79.
13. Korzeniowski P. Zasady prawne ochrony środowiska / P. Korzeniowski. – Łódź, 2010. – S. 429.
14. Dyrektywy Rady 75/439/EWG z dnia 16 czerwca 1975 r. w sprawie unieszkodliwiania olejów odpadowych (Dz. Urz. L 194 z 25.07.1975 r. – S. 1, pkt 4b).
15. Kiss A., Shelton D. Manual of European Environmental Law / A. Kiss, D. Shelton. – Cambridge, 1993. – S. 8–12.
16. Pearce D. W. Foundations of an Ecological Economics / D. W. Pearce // Ecological Modelling 1987/38. – S. 9–18.
17. План стратегічного розвитку м. Бердянська на 2002–2010 рр. Стратегічний план розвитку м. Вознесенська до 2010 року. Стратегічний план розвитку м. Чугуєва на 2002–2006 рр.

**Фуртак-Ничипорук М. Зміцнення екологічної безпеки України.** У сучасних державах екологічна безпека не є справою окремих осіб, тому дії з охорони середовища належать до сфери повноважень публічної влади. Отже, публічна влада відповідальна за організацію дій і ресурсів із метою забезпечення екологічної безпеки країни. Це вимагає комплексного підходу й раціонального прийняття рішення та вироблення відповідних завдань публічної адміністрації, що можуть пов'язуватися зі створенням нових спеціалізованих установ. Забезпечення оптимальної екологічної безпеки нерозривно пов'язане з дотриманням принципів охорони середовища, де основним інструментом забезпечення екологічної безпеки є право. Наведені автором принципи можуть скласти базу екологічної безпеки в Україні. Слід приймати превентивні засоби, щоб зберігати екологічну безпеку України, також потрібні організаційні заходи, зокрема створення нових екологічних структур та збільшення чисельності їхніх компетентних працівників.

**Ключові слова:** екологічне право забруднення навколишнього середовища, екологічна шкода, екологічна безпека, Україна.

**Фуртак-Ничипорук М. Укрепление экологической безопасности Украины.** В современных государствах экологическая безопасность не является делом отдельных лиц, поэтому действия по охране окружающей среды относятся к сфере полномочий публичной власти. Публичная власть ответственна за организацию действий и ресурсов с целью обеспечения экологической безопасности страны. Это требует комплексного подхода и рационального принятия решения и выработки соответствующих задач перед публичной администрацией, которые могут связываться с созданием новых специализированных учреждений. Обеспечение оптимальной экологической безопасности неразрывно связано с соблюдением принципов охраны окружающей среды, где основным инструментом обеспечения экологической безопасности является право. Приведенные автором принципы могут составить базу экологической безопасности в Украине. Следует принимать превентивные средства для того, чтобы сохранять экологическую безопасность Украины, также нужны организационные мероприятия, в частности, создание новых экологических структур и увеличение численности их компетентных работников.

**Ключевые слова:** экологическое право загрязнения окружающей среды, экологический вред, экологическая безопасность, Украина.