

O. Logvynenko,
Candidate of Juridical Sciences, Docent

S. Khomyachenko,
Candidate of Juridical Sciences, Docent

LEGAL REGULATION OF THE ENVIRONMENTAL FUNCTION OF THE STATE IN CONTEXT OF HUMAN RIGHTS AND CITIZENS

The authors of the article made an attempt to investigate the place and role of the state's ecological function in Ukraine, an analysis of the norms of the current legislation of Ukraine on the basis of which the legal regulation of the state's ecological function is carried out. Specific features of environmental rights are disclosed, and issues of compliance with environmental legislation in the sphere of use and protection of forest resources are considered separately.

Key words: *environmentally safe for life and health, ecological function, ecological safety, ecological balance, nature reserve legislation, nature protection bodies, protection.*

О. І. Логвиненко, С. І. Хом'яченко

Правове регулювання екологічної функції держави в контексті прав людини і громадянина

Авторами статті зроблено спробу дослідити місце і роль екологічної функції держави в Україні, проведено аналіз норм чинного законодавства України, на підставі яких здійснюється правове регулювання екологічної функції держави. Розкриваються специфічні риси екологічних прав, окремо розглядаються питання дотримання екологічного законодавства в сфері використання та охорони лісових ресурсів.

Ключові слова: *безпечне для життя і здоров'я довкілля, екологічна функція, екологічна безпека, екологічна рівновага, природоресурсне законодавство, природоохоронні органи, охорона.*

Е. И. Логвиненко, С. И. Хомяченко

Правовое регулирование экологической функции государства в контексте прав человека и гражданина

Авторами статьи сделана попытка исследовать место и роль экологической функции государства в Украине, проведен анализ норм действующего законодательства Украины, на основании которого осуществляется правовое регулирование экологической функции государства. Раскрываются специфические черты экологических прав, отдельно рассматриваются вопросы соблюдения экологического законодательства в сфере использования и охраны лесных ресурсов.

Ключевые слова: *безопасная для жизни и здоровья окружающая среда, экологическая функция, экологическая безопасность, экологическое равновесие, природоресурсное законодательство, природоохранные органы, охрана.*

Problem statement and its relevance. Problems of environmental security have gained in the world of extreme urgency. With the environment in many countries, and especially in Ukraine, in recent years there are processes that absolutely do not correspond to one of the main international principles - environmental protection and rational use of natural

resources in order to preserve it for future generations. Unfortunately, these processes are the result of irresponsible human activities. And how not to mention here the words of the prominent Ukrainian poet Lina Kostenko: «In society, retrograde amnesia ... Therefore, with this society you can do anything ... Cut down its forests. Carry nuclear waste

through his head. Any d to hang over his head. (It's) I'm afraid when it's too late» [1, p. 288].

In the theory of the hierarchy of Abraham Maslow's needs, security is one of the five basic needs. That is, the desire of people to achieve the stable and safe lifestyle, which is to protect from the physiological and psychological dangers from the outside world and the confidence that the priority needs of man will be met to the appropriate extent and in the future [2]. One of the effective ways of preserving the environment and its sustainable development is the legislative consolidation of the basic principles and mechanisms of environmental protection. That is why the current legislation in the field of environmental protection should be aimed at regulating public relations in the field of interaction between society and nature in order to activate legal mechanisms aimed at preserving the rational use of natural resources, their reproduction, preservation.

Analysis of research and publications. The study of certain legal aspects of the interaction of society and nature, as well as the definition of ecological function in the system of classifications of state functions, is dedicated to the work of such prominent scholars as V. I. Andreytseva, A. P. Hetman, M. I. Yerofeyev, M. I. Malyshka, V. L. Munteana, V. M. Nosika, V. K. Popova, B. G. Rozovsky, N. I. Titova, N. R. Malysheva, Yu. S. Shamshuchenko, M. V. Shulga and other researchers.

However, the issue of ensuring the state of human rights and citizen for a safe environment for life and health remain in the field of scientific interests and determine the relevance and novelty of this article, the scientific and practical importance of its separate provisions.

The purpose of the article is to study the specifics of legal regulation of the ecological function of the state in the context of human rights and citizen.

Statement of the main material. Undoubtedly, such security, in accordance with the functions, should be provided by the state. In the Constitution of Ukraine, in particular, the ecological function of the state is enshrined as one of the aspect of the defined security: the right of citizens to a safe envi-

ronment for life and health and for compensation for damage caused by violation of this right. A. Hetman noted that in today's conditions, when problems of interaction between man and nature acquire to the importance of national priorities, the constitutional consolidation of a relatively new function of the state - ecological, aimed at harmonizing the relations of society and nature, ensuring optimal consideration of the economic and environmental interests of society for the unconditional championship of ecological ... the realization of this function is carried out through the management of natural resources and environmental protection, which represent the most important component of social management of society [3, p. 36].

In addition, everyone is guaranteed the right to free access to information on the state of the environment, the quality of food and household stuff, as well as the right to distribute it (Article 50). The right of citizens is related to the duty of the state to ensure environmental safety and to maintain ecological balance in Ukraine, also to overcome the consequences of the Chernobyl disaster, to keep the gene native of the Ukrainian people (Article 16), ownership of land, which is acquired and implemented exclusively in accordance with the law (Art. 14). Human rights and freedoms, enshrined in the Constitution of Ukraine, are inalienable, inviolable, their list is not exhaustive, and implementation should not violate the rights and freedoms of others (Articles 21, 23). By consolidating the natural rights (basic, inheritance, acquired with birth) and the freedom of man and citizen, the Constitution of Ukraine recognized and guaranteed a number of derivatives from them, specified in the political, economic, social, cultural, environmental and other spheres of life, as well as personal rights citizens in accordance with generally accepted principles, standards and norms due to international law [4, p. 48].

Thus, the specific feature of environmental rights is that they directly affect the personal freedom of a person and a citizen and are ensured by law in accordance with the forest, land, water, mining, faunal, floristic legislation, legislation on the protection of atmospheric air, the exclusive (marine) economic zone and the continental shelf, a

natural reserve fund of the state through an ecological function.

According to Art. Article 92 of the Constitution of Ukraine defines the principles of the use of natural resources, the exclusive (marine) ecological zone, the continental shelf, development of space, the organization and operation of energy systems, transport and communications (paragraph 5), health protection, environmental safety (paragraph 6) The current legislation establishes the right of citizens both within the framework of environmental protection and within the limits of natural resources legislation. As it is about the right to environmental safety, one can not ignore the norms of the Constitution of Ukraine, according to which the person, his life and health, inviolability and safety are recognized as the highest social value. Human rights and freedoms and their guarantees determine the content and direction of the state (Article 3). The earth, its subsoil, atmospheric air, water and other natural resources, natural resources of the continental shelf, the exclusive (marine) economic zone are the objects of the property rights of the Ukrainian people.

As we noted above, the responsibility of the state is «to ensure ecological safety and maintain ecological balance in the territory of Ukraine ..., preservation of the gene pool of the Ukrainian people» [2, art. 16]. The Cabinet of Ministers of Ukraine (Article 3, Article 116), the observance of the rights and freedoms of citizens, the implementation of state and regional programs for the protection of the environment - local state administrations in the respective territory (Section 2, Paragraphs 2 and 3 of the Law on the Protection of the Environment, Environmental Safety and Nature Use) 3, art. 119) [5].

The initial and the starting point of environmental rights is the ability for a person to use an unpolluted environment, to live in an environmentally balanced environment, to receive clean products and items of use and consumption, hear reliable information about them, material and moral compensation for damage caused to the health and property of a person by environmental offenses [6].

In order to achieve positive results in the provision of environmental rights, the state's ecological safety should be regulated through a number of el-

ements: political, legislative, agreements, state, official, public bodies, which should closely cooperate on issues of environmental protection and its biodiversity.

In our opinion, the main task of the ecological function is that the forces and means of the state, based on the system of norms regulating environmental relations, establish and maintain a scientifically based ratio of the economic (in the sphere of natural resources) environmental (support of a favorable environment for the person) of the interests of society. For the implementation of the ecological function, a system of state bodies that manages the use of natural resources and environmental protection (nature protection bodies) has been created.

Environmental security in Ukraine has been in the process of formation for the third decade. However, we do not see the positive results, unfortunately. Unregulated in this area, legislation, inconsistency of actions of state bodies, non-fulfillment of their functions entail negative, and sometimes tragic situations, such as: the destruction of the Rivne region ecosystem and significant losses to the region's agriculture due to the illegal extraction of amber; floods, landslides and other natural disasters in Transcarpathia due to illegal felling of forests, etc.

Let's touch on the situation with forests, because in accordance with the Basic Principles (Strategies) of the State Environmental Policy of Ukraine for the period up to 2020 by the area of forests and wood stocks Ukraine is a state with a shortage of forest resources [7]. In particular, in 2010, forests occupy more than 15.7 per cent of the territory of Ukraine. Therefore, among the strategic goals and objectives for forests in the Basic Principles it is determined: to increase the area of afforestation of the territory up to 17 percent of the state territory by 2020 by means of restoration of forests and afforestation on the land plots of the forest fund, to create protective forest plantations on non-agricultural lands and lands set aside for afforestation, to renew and create new field-protective forest strips, except natural steppe areas. Instead, the annual number of forest plantations decreases at a fairly rapid pace. Thus, according to the State Forest Service, the number of illegal logging has increased from 15.1 thousand cubic meters in 2010 to 24.1 thousand cu-

bic meters in 2015 [8]. However, these data are only official statistics, which in reality does not reflect the real scale of the destruction of forests.

In spite of the adoption of the 2015 moratorium on the export of unprocessed timber [9], which temporarily (for 10 years) is prohibited export of untreated timber to Ukraine outside the customs territory of Ukraine: wood species (except pine trees) - from November 1, 2015, wood pine rocks - from January 1, 2017, and more stringent requirements for deforestation, adopted by the decision of the Cabinet of Ministers of Ukraine in 2016 [10], the number of forest plantations in Ukraine dramatically decreases. This, according to scientists, may lead to an increasing in the concentration of carbon dioxide in the atmosphere in the near future, global warming and, undoubtedly, will negatively affect people's health and, therefore, will continue to violate the citizens' right to a safe environment for life and health.

Conclusions. Consequently, in our opinion, such an inadmissible situation with the provision of human rights and citizenship by the state to a safe environment for life and health in Ukraine should be solved in several aspects. On the one hand, to harmonize the norms of legislation in accordance with the provisions of the Constitution of Ukraine regarding the provision of environmental safety both for the state as a whole, for every person and citizen, on the other hand - to pay closer attention to the organization of ensuring a safe environment for life and health, for which clearly to differentiate the powers of state bodies on the protection of nature and its reproduction, natural resources and its consumption. But the most important thing is to establish real responsibility for offenses and crimes and to determine not only material compensation but also mandatory measures of natural reproduction for violators of law and criminals and to control their implementation. In addition to the above, it is necessary to review the structure and authority of environmental authorities, provide bigger opportunities for public control and ensure, in accordance with the Constitution of Ukraine, the provision of information to the public on the state of the environment, as well as explain the consequences of offenses and crimes in the future. As an object of ad-

ministrative and legal regulation, the right of a person and a citizen to be safe for life and health of the environment has several aspects: negative (the state should not deprive and not limit these rights), and positive (to make efforts and funds for their provision). Therefore, the state should as soon as possible recall that the ecological function belongs to the basic ones and, accordingly, it is entrusted to the state authorities. It is from the revival of the state's implementation of the aforementioned function that the implementation of environmental rights of a person and a citizen in Ukraine.

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