

Implementation of EU Environmental Policy in Ukraine: Directions and Perspectives

By Liudmyla Golovko¹, Maksym Kutsevych², Viktoriia Serediuk³, Olga Bogdan⁴

Abstract

The purpose of our article is to investigate the process of approximation of Ukrainian environmental legislation to EU law. The range of issues that Ukraine has reformed in the field of environment has been investigated. The state of compliance of Ukrainian environmental legislation with the commitments under the EU-Ukraine Association Agreement was revealed. The problems of further effective application in practice of the adopted regulatory legal acts, strategies and action plans were disclosed. Particular attention was paid to water legislation and legislation in the field of waste management. The current state of the sphere of solid waste management in Ukraine was revealed. The state of adaptation of Ukrainian water legislation to the requirements of the European Union law has been investigated. Ways to improve Ukraine's environmental policy on waste and water policy based on European experience were substantiated. The methods of comparative law, statistical, analytical and logical analysis were used.

Keywords: EU Environmental policy, environmental law, EU water policy, EU waste policy, Ukrainian environmental legislation.

1. Introduction

The process of adaptation of Ukrainian legislation to the European Union law was initiated by signing Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (Council and Commission Decision, 1998). According to article 51 of the Partnership and Cooperation Agreement, one of the important tasks facing Ukraine is the improvement of domestic environmental legislation and bringing it into line with European standards. Ukraine has made a commitment to continuously approximate its own legislation to the European law including the environmental sphere.

A new important stage of development of bilateral relations between Ukraine and the European Union was caused by EU enlargement in 2004, when Ukraine and the European Union have become immediate neighbours and declared intention to strengthen its political and economic interdependence. EU-Ukraine Action Plan was enacted on February 12, 2005 in order to enhance cooperation. Realization of the EU-

¹PhD., associate professor of the Department of International Law and Comparative Law of the National University of Life and Environmental Sciences of Ukraine

²Doctor of Juridical Science, associate professor, deputy dean of the Faculty of Law and associate professor of the Department of Criminal Law and Criminology of the Faculty of Law of Taras Shevchenko National University of Kyiv

³PhD., associate professor of the Department of Theory of Law and State of the Taras Shevchenko National University of Kyiv.

⁴PhD., assistant of the Department of Theory of Law and State of the Taras Shevchenko National University of Kyiv.

Ukraine Action Plan was intended to make Ukrainian legislation more similar to EU legislation, particularly in the sphere of environmental protection, thereby contributing to the long-term goals of improving the environment.

Accession of Ukraine to the Energy Community Treaty contributed to further adjustment of environmental legislation of Ukraine to the EU environmental standards (Funta, 2014, p. 503). According to article 12 of the Treaty establishing the Energy Community, each Contracting Party shall implement European environmental legislation. In order to fulfil this obligation by the Decree of the Cabinet of Ministers of Ukraine of August 3, 2011 № 733-p an Action Plan for implementation of the obligations under the Energy Community Treaty was approved, which defines terms and state authorities responsible for the implementation.

Nowadays, major environmental reforms in Ukraine are being undertaken mainly with the goal to implement the environmental component of the EU-Ukraine Association Agenda. Ukraine's collaboration with the EU, including the environmental sphere is carried out in the framework of the Association Agreement. Environmental issues in the EU-Ukraine Association Agreement are traditionally enshrined in the "Other areas of cooperation" and relate to the preparation for the implementation of *acquis communautaire* and support of Ukraine in: development and implementation of legislation, plans and strategies in the sphere of environmental protection, particularly on environmental impact assessment, public participation and public access to environmental information; development of national implementation instruments according to multilateral agreements in the field of environmental protection; implementation of roadmaps for fulfilment of tasks in the field of water resources protection, using the national policy dialogue in the framework of the EU water action; strengthening administrative capacity in the field of environmental protection (EU-Ukraine Action Plan, 2007).

According to Annex XXX of the EU-Ukraine Association Agreement Ukraine has committed itself to adapting its own legislation to 29 Directives and Regulations in the sphere of environmental protection. To fulfil this commitment, Ukraine has amended its legislation (Golovko, 2019).

It can be noted that in recent years, serious progress has been made in Ukraine in the area of approximation of national environmental legislation to EU standards. In order to apply the principle of integration of environmental issues specific strategies and concepts were developed. It was adopted a number of documents aimed at implementing the principles of sustainable development: Sustainable Development Strategy "Ukraine - 2020", The Concept of Balanced (Sustainable) Development of Agroecosystems in Ukraine for the Period until 2025, Energy Strategy of Ukraine until 2030, etc.

In order to approach European legislation in the field of monitoring the degree of environmental pollution and ensuring the right of public to a safe environment, the Law of Ukraine "On Environmental Impact Assessment" was adopted in 2017. The legislator has improved the mechanism of participation of citizens in the process of environmental impact assessment. The new mechanism obliges the enterprise to evaluate the impact of its activities on the state of water objects, air and natural objects before the decision-making stage and to ensure that public participation is an integral part of this procedure and every opinion is properly considered. Environmental impact assessment procedure

ensures openness and transparency by reflecting the entire decision-making process in the single register of environmental impact assessment available online (<http://eia.menr.gov.ua/>). In addition, this single register is a valuable source of information on potential negative impacts on the environment and human health, which ensures that stakeholder needs are addressed, minimizes conflicts before a decision is made, and provides an effective optimal solution. During the public consultation phase, interested community representatives may offer less harmful technology or provide additional information about the impacts of the planned activity, thereby also preventing the financial risks.

Introducing participation of citizens in the environmental impact assessment of projects is a positive step. Public participation provides several advantages for both the enterprise and the executive body, which will decide on the issue of a permit to carry out activities that may harm the environment. Public participation can help to better understand environmental issues (Torth, 2010; Bonnoris, 2010; Squintani, 2016).

It is important to take into account the objects that adversely affect the state of the environment. The amount of information on the activities of enterprises, which should be reflected in environmental accounting, was determined taking into account the experience and specifics of a number of leading sectors of the economy (including chemical and petrochemical industry, automotive, pharmaceutical, metallurgy and forestry). At the moment, this information usually covers the following main items: targets, standards and effective measures in the main areas; the most important environmental aspects of the enterprise, including emission levels (discharges, waste disposal, etc.); financial indicators and data on the property of the enterprise (current expenses, capital investments, expenses for post-accident measures, acquisition of nature management facilities, etc.); liability for environmental accidents, including litigation to compensate for the damage; information contained in the notes to the financial statements (General requirements, 2020). Insufficient state control over compliance with permit conditions and mostly ineffective mechanisms to ensure compliance with environmental legislation do not encourage enterprises to increase investments in environmental measures. In Ukraine, the problems of significant environmental pollution are due to the following factors: inefficiency of the system of state control over compliance with environmental legislation; lack of requirements in the legislation for the use of the best available technologies and management methods to ensure maximum environmental protection; lack of tools to inform the public about the fulfilment by enterprises of the conditions of permit documents; small fines for infringement of legislation. In addition, no deadlines have been set for enterprises to conduct an inventory of pollutant emissions. All these shortcomings need to be addressed.

The implementation of the EU environmental legislation in Ukraine is necessary not only for the implementation of the Association Agreement, but also for the purpose of improving the state of the environment and, as a consequence, the health of citizens. But, it should be mentioned, simply changing the legislation is not enough. It must be actually implemented by all business entities, bodies of local self-government, state bodies, and especially controlling bodies.

2. Implementation of EU water policy

In the field of protection of water resources Ukraine has committed itself to approximate its legislation to six European directives. Most obligations follow from the Water Framework Directive and the Nitrate Directive.

Ukraine has made the transition to a new principle of water management - the basin principle. This is a new approach for Ukraine, which allows complex regulation of the protection and use of water bodies. This principle unites all users (water utilities, industrial and agricultural enterprises, hydroelectric power stations, etc.) in a single chain from water intake to water discharge.

Administrative territorial management model was changed by the integrated river basin management model in accordance with the requirements of the EU Water Framework Directive. As part of this reform: integrated approach to water resources management according to the basin principle was introduced; hydrographic and water management zoning of the territory of Ukraine was carried out, the boundaries of the river basin, sub-basin and water management areas were established; specialized governmental administrations have been established at the basin level; 13 basin councils were formed, which are advisory bodies that participate in the creation and realization of the state water protection policy within a separate area of the river basin; the obligation to develop and implement programs and plans aimed to achieve good status of water objects was established.

A new procedure was introduced for the implementation of state monitoring of waters (surface, underground, marine). From now on, the components of state water monitoring are monitoring of biological, hydromorphological, chemical and physico-chemical indicators. The ecological status of the surface water massifs should be classified as "excellent", "good", "satisfactory", "bad" or "very bad" based on environmental standard of water quality. These changes are positive because the previous monitoring took into account a small number of indicators, mainly purely chemical ones, some of which were generally not significant. With regard to groundwater, it is established that: the quantitative status of the groundwater mass is determined by the ratio of groundwater abstraction to its total volume and is classified as "good" or "bad"; the chemical status of the groundwater mass is determined by individual groups of pollutants and classified as "good" or "bad". The main task of state water monitoring is to achieve and maintain good ecological and chemical status of surface water massifs, good quantitative and chemical status of groundwater massifs and good ecological status of seawater. The new procedure for state water monitoring envisages the functioning of water monitoring as part of the process of developing river basin management plans and the maritime strategy of Ukraine and assessing the progress and effectiveness of their implementation.

In order to provide free access of citizens to information about water bodies of Ukraine the geo-portal "Water Resources of Ukraine" was created. The geoportal was developed with the goal to fulfil the requirements of EU Water Framework Directive. It was planned that it would contain comprehensive information about the state of water bodies. However, the geo-portal is still not filled with information. This state of affairs hinders environmental protection processes (Ladychenko, 2018).

Information on the quality of drinking water is also not made public. According to the law, National Report on the quality of water intended for human consumption and the state of drinking water supply should be prepared and this report should be made public. However, the last report was published in 2009.

An analysis of the ecological status of the river basins of Ukraine allows to identify the most acute problems: extensive water management, resulting in a crisis reduction of the river's self-replicating capacity and depletion of water resources (Gulac, 2019; Hubanova, 2017); huge volumes of wastewater discharges by industrial enterprises (Yara, 2018), lack of treatment systems in small settlements where sewage flows into groundwater and further into the water intake layer (Krasnova, 2019); irrational water use (Shulga, 2019).

The difficulties of the implementation of the EU Nitrates Directive should be resolved. Agricultural enterprises in Ukraine like in the EU must be equipped with special impermeable containers and storage areas for manure (Ecological innovations..., 2016).

At legislative level quality standards for drinking water in Ukraine meet the standards of drinking water quality in the EU, but they are not fulfilled in practice. In addition to amendments to the water legislation, there are a number of tasks that must be completed: implementation of comprehensive measures intended to modernize and upgrade the water supply and sewage network, the introduction of rational water consumption standards for the population, improvement of water resources accounting, improvement of tariff policy, creation of a basis for reducing the consumption of water resources in production and improvement of quality of drinking water. Unlike in Ukraine, in EU countries significant water quality improvement occurred. The quality of water intended for human consumption in new EU member states has improved significantly in recent years thanks to EU funding (Golovko, 2017).

In Ukraine responsibility for pollution of seas, surface, groundwater and drinking water sources must be strengthened. According to Criminal Code of Ukraine, a fine from about EUR 1760 to EUR 4690 can be imposed for industrial pollution of water objects. This amount of fines does not deter legal entities from contamination of water bodies. It is also necessary to strengthen the administrative responsibility of citizens for pollution and contamination of water bodies. The responsibility for the contamination of water objects should be such that no physical or legal person tries to do it again.

Methodology for calculating environmental damage to water objects is imperfect (Klimek, 2017; Shkurti, 2019). The amount of fines imposed for pollution of water bodies does not cover the amount of costs necessary to restore the quality of water bodies. This shortcoming needs to be addressed.

3. Approximation of Ukrainian legislation on waste to EU law

The problem of waste in Ukraine is of particular magnitude (Ladychenko, 2020). As a general rule, the system of waste management in Ukraine is characterized by the following trends: almost 95 % of waste is landfilled and only a small proportion is incinerated or recycled; half of the landfills do not meet the requirements established by law and sanitary standards; insufficient number of incineration plants; the accumulation of waste in both the industrial and household sectors, which has a negative impact on human health and environment; improper disposal of hazardous waste; disposal of

household waste without taking into account possible dangerous consequences; inadequate level of use of waste as secondary raw materials; inefficiency of implemented economic instruments in the sphere of waste management, low level of culture of the population regarding waste management. Significant volumes of waste accumulated in Ukraine and the lack of effective measures aimed at preventing their generation, utilization, neutralization and disposal, deepen the environmental crisis.

This situation makes it necessary to create and ensure the correct functioning of the national system for the prevention of waste generation, collection, processing and safe disposal. This should be an urgent task, even in conditions of relative limited economic opportunities. The only possible way to resolve the situation is to create a comprehensive waste management system. Solving this problem is crucial in addressing the issues of energy and resource independence of the state, saving natural material and energy resources, and is an urgent strategic task of public policy.

The first steps in this direction were made. Starting from January 1, 2018, it is prohibited to take waste that can be recycled to landfills. That is, officially this requirement should be fulfilled throughout the territory of Ukraine, however, so far this norm remains only a declaration.

It is necessary to create conditions that will contribute to insuring the separate waste collection. Creation of a system of two-stage transportation of household waste with construction of waste reloading stations needed to be done. It will increase the use of waste as secondary raw materials.

As a separate aspect, we should highlight the environmental education of citizens, which is necessary to improve the state of waste management in the country. There are significant gaps in this area in Ukraine that need to be addressed. The purpose of environmental education is to develop competencies (knowledge, skills and abilities) necessary for environmentally responsible behavior. Implementation of environmental education can take various forms: environmental education programs; long-term educational programs; teacher education; leisure programs; events for the public; ecological consultation; part of teaching other subjects; creation of educational materials; ecological social entrepreneurship. In EU member states, environmental education programs are offered by a number of organizations, especially environmental education centers, and are designed primarily for kindergartens, primary and secondary schools. These are programs that complement education at all mentioned levels of education with an environmental aspect. In some countries, such as the Czech Republic, strategic documents have been developed that form the basis for sustainable development and cover both waste management, in particular waste prevention, and environmental education and upbringing. Ukraine must use this experience.

It is also advisable to develop a Waste Prevention Program, as it is required by the EU Waste Directive. The main goal of the Waste Prevention Program should be to create conditions for reducing the consumption of primary resources and gradually reducing waste production through a coordinated and unified approach. The main goals should be the following: provide comprehensive information support in the sphere of waste management; support, promote and adequately inform at all levels about the available voluntary instruments (voluntary agreements, environmental management systems, eco-labeling, cleaner production) with a view to their gradual expansion; pay maximum

attention to food waste and create conditions for the gradual reduction of this waste at all levels of the food cycle (stages of food production, including marketing and consumption); create conditions for stabilizing the production of certain components of municipal waste and its further reduction at all levels of government; to create conditions for stabilization of production of hazardous waste, construction waste, textile waste with the purpose of its real reduction; encourage the use of service and charitable centers and organizations to extend the life and reuse of products and materials.

Conclusions

The first steps in the adaptation of Ukrainian environmental legislation to EU legislation have been made. Significant progress has been made in the field of environmental impact assessment and strategic environmental assessment, which are important environmental policy tools that provide an opportunity to assess possible environmental damage and prevent or minimize it.

Significant work has already been done in the field of adaptation of Ukrainian water legislation to European standards. An important step is the introduction of the principle of basin management. At the same time, many changes are still needed. Basin authorities, which have already been created, do not have enough powers to exercise their functions. On the example of EU member states in Ukraine it is reasonable to develop and realize strategy for implementing the Nitrates Directive, research and development programs for farmers, which are developed and implemented almost in all EU countries.

In addition to amendments to the Ukrainian waste legislation, there are a number of tasks that must be completed: insuring separate waste collection, implementation of projects aimed at waste prevention, integration of waste prevention into school education, creation of modern landfills with water filtration and biogas utilization.

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