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**ENVIRONMENTAL POLICY OF THE EUROPEAN UNION
IN SOLVING ENVIRONMENTAL PROBLEMS**

On the basis of existing standards in the field of environmental protection, the member States of the European Union are obliged to bring national legislation into line with these standards and ensure that practices comply with the goals set out in the Union's regulations. The analysis of the formation and development of environmental policy, competence and law of the European Union gives grounds to speak about the accumulated positive experience in this area. The environmental standards and programs developed in the European Union are of interest not only for integration associations of other regions, but also for neighboring states, including near and far abroad, which are extremely interested in the development and improvement of their national environmental legislation. Relations resulting from the development of a program of action by the member States of the European Union, decisions of the Court of Justice of the European Communities, competence and regulations of the institutions of the European Union in the field of environmental protection. The institute of responsibility in European environmental law has been analyzed in sufficient detail in the context of various aspects. The complex of political and legal aspects related to the formation and development of the policy, competence and law of the European Union in the field of environmental protection is also considered. The article consistently sets and solves the following tasks: periodization of the main stages of the formation and development of the policy and competence of the European Union in the field of environmental protection; assessment of the contribution of the member States (the so-called «greens») to the formation of the ecological legal order of the European Union; analysis of the role of the Court of Justice of the European Communities in the formation and development of the competence of the European Union in the field of environmental protection.

Keywords: environmental protection, European law, environmental policy, human rights, European Union.

Introduction

The problems related to the formation and development of the policy, competence and law of the European Union in the field of environmental protection are sufficiently fully investigated in the Western legal literature. In particular, fundamental works by A. Jordan, A. V. Ili, D. Lifferenk, P. Lowe, A. Mola, A. Zito and others are devoted to these issues. In modern legal literature, this problem as a whole is usually considered in the context of general problems of law. The analysis of the regulatory framework gives the authors a reason to identify the following principles that operate within the framework of the European Union in the field of environmental protection: the principle of preventive actions; the precautionary principle; the principle of compensation for environmental damage; the principle of polluter liability. At the same time, the authors claim that the European Union applied the principle of subsidiarity in the environmental sphere, which was then extended to other areas of the Union's activities.

The natural environment is an important value protected on the basis of international law. There are many acts of international law relating to the environment, including acts adopted at the United Nations forum. However, it should be emphasized that the leading UN environmental protection acts, as a rule, are declarative rather than decisive.

They set out some guiding principles, as well as laws and norms of international morality in the field of environmental protection, but they are not sources of individual rights, since they are acts of «soft law» [1], which do not lead to any concrete results, fulfillment of obligations, as evidenced by the Rio Declaration on the Environment and development of 1992 [2] or the previous Stockholm Declaration of 1972 [3].

It should be noted that the United Nations has not adopted a single binding document establishing the human right to a clean environment.

As for the foundations of European law, the issue of environmental protection is systematically becoming increasingly important. In the European-regional dimension, there are two leading organizations, as well as integration structures. These are the Council of Europe and the European Union.

The Council of Europe, formed in 1949, is a somewhat less strict structure aimed at strengthening the importance of values such as democracy, the rule of law and human rights.

In turn, the European Union, which dates back to 1958, when the European Economic Community was established, is an organization that has long been

focused on economic goals. But for some time, the European Union has been significantly and gradually expanding the subjective scope of its powers, including attempts to draft a European constitution. Each of the two segments of the European legal system demonstrates growing activity in the field of environmental protection [4].

Speaking about the axionormative European system, it is necessary to take into account the following. The natural environment is protected in accordance with the system of European law, namely both in the regulations of the European Union and in the regulations of the Council of Europe. We are interested in ensuring that European legislation on environmental protection is not limited to declarations and non-binding assurances.

We are talking about creating such international legal instruments and procedures for environmental protection that would be effective. In European academic communities, this issue is becoming one of the leading and widely discussed. There is an increase in the number of scientific papers on environmental protection and proposals on the establishment of legal procedures for environmental protection [5].

However, the fundamental source of EU legislation concerning liability in the field of environmental law is the Directive of the European Parliament and of the Council of 2004 on environmental liability in relation to the prevention and elimination of environmental damage [6].

The Court of Justice of the European Union makes decisions within the framework of European legislation on environmental protection. Court decisions are usually the result of proceedings on the complaint of the European Commission against the State for violation of obligations under the legislation of the European Union [7].

However, it should be emphasized that in recent years there have been certain qualitative changes in the approach to environmental issues. Currently, the European Union is not concentrating on eliminating the direct consequences of pollution. The main focus is now on the environment of human life [8].

The Council of Europe is an organization that, thanks to its achievements, enjoys the well-deserved opinion of the main creator and propagandist of the idea of human rights in Europe. The achievements of the Council of Europe in the field of human rights have proved inspiring for other international organizations and for non-member States.

The Council of Europe takes legal actions aimed at protecting the environment. An institution of the Council of Europe dealing with environmental issues – the Committee on Environment, Agriculture and Regional Affairs, in 2003 submitted

to the Parliament of the Assembly of the Council of Europe a report entitled «Environment and human rights» [10].

The Committee has repeatedly stressed the existence of the human right to a healthy, suitable, satisfying environment, which can be defined in material and procedural terms, and therefore also in terms of access to information, public participation in decision-making and protection of human rights and fundamental freedoms, as enshrined in the Aarhus Convention «On Access to Information, Public participation in decision-making and access to justice in environmental matters 1999, it does not establish the human right to live in a healthy and friendly environment» [11].

Moreover, the European Commission on Human Rights has previously stated that «the right to nature protection is not guaranteed, since the environment is not an object and, therefore, cannot enjoy protection in accordance with the Convention» [12].

However, over time, the approach of the European Court of Human Rights and especially the dynamic interpretation of the Convention from the point of view of environmental protection led to a weakening of the rigidity of this initially negative position.

As a result, later decisions of the European Court of Human Rights show environmental problems against the background of cases involving violations of other freedoms and human rights protected by the Convention.

Materials and methods

From a methodological point of view, the problem of environmental protection should be considered in two perspectives: from the point of view of the transformations of the international protection of the environmental sphere, coupled with the ongoing economic and legal reforms, and from the perspective of the study of this problem within the framework of European law.

The research uses: a dialectical approach to the cognition of social phenomena, which allows analyzing them in their historical development and functioning in the context of a set of objective and subjective factors, which determined the choice of the following methods: logical, historical, systemic. In order to achieve conceptually and practically significant results, comparative and statistical methods were also used in the research process.

Results and discussion

Results: the article analyzes and proposes the author's definitions of the concepts: environmental protection, European law, environmental rights; highlights the main methods for assessing the results of international protection of the environmental sphere.

The presented review of scientific publications makes it possible to combine the results of research in various branches of science for a deeper understanding of the essence of environmental protection problems, regulatory support of environmental management processes in line with the requirements of European law.

The article summarizes certain results obtained in the field of scientific research of environmental problems. The scientifically based conclusions and proposals contained in the works of scientists from different countries allow us to systematically recognize environmental protection as a global international problem, as well as to show in detail its individual elements, which allows us to justify universal methods of solving environmental problems, taking into account the national characteristics of individual states.

Conclusion

Environmental protection is the subject of many international legal agreements of various legal force. Europe is a region in which the issue of environmental protection is increasingly being discussed both at the State level and at the supranational level. The leading structures of European integration, the European Union and the Council of Europe, take an active attitude to this problem.

The article focuses on the presentation of the European legal state in the field of environmental protection, as well as the presentation of the directions of the European legal discourse concerning the directions of development of legislation on environmental protection, including proposals for the establishment of a subjective human right to live in a healthy and friendly environment.

The efforts made in the field of environmental protection have led to the fact that today experts are already talking about the existence of a «European ecological order». Moreover, fundamental works have been published in the West, the authors of which prove the existence of the policy and law of the European Union in the field of environmental protection.

On the basis of existing standards in the field of environmental protection, the Member States of the European Union are obliged to bring national legislation into line with these standards and ensure that practices comply with the objectives set out in the Union's regulations.

The analysis of the formation and development of environmental policy, competence and law of the European Union gives grounds to speak about the accumulated positive experience in this area.

The established environmental standards and developed programs are of interest not only for integration associations of other regions, states that are extremely interested in the development and improvement of their national legislation [12].

According to the authors, it can now be argued that there is an international legal regime in the field of environmental protection within the European Community. This regime is confirmed in the existence of stable and interrelated rules that prescribe behavioral norms to subjects and form prospects in the field of environmental protection.

The analysis of the regulatory framework gives the author a reason to identify the following principles that operate within the framework of the European Union in the field of environmental protection: the principle of preventive actions; the precautionary principle; the principle of compensation for environmental damage; the principle of polluter liability. At the same time, the author claims that the European Union applied the principle of subsidiarity in the environmental sphere, which was then extended to other areas of the Union's activities.

The authors argue that despite the existence of a certain legal regime within the European Union in the field of environmental protection, the competence of the member States in the rule-making process and the implementation of these norms remains crucial. This is, in particular, confirmed by the fact that the mentioned regime is based mainly on framework directives, i.e. on acts indicating the ultimate goals of achievement, but giving Member States the freedom to choose the means to achieve these goals. At the same time, general strategic considerations still prevent the creation of a permanent environmental coalition within the European Union [13].

According to the authors, the entry into force of the draft Treaty, developed in 2003, establishing a Constitution for Europe, will radically improve the legal framework of the European Union in the field of environmental protection. This statement of the author is based on the following provisions enshrined in the draft of this Treaty: the environment was in the joint competence of the Union and the Member States; a high level of environmental protection and environmental quality improvement becomes part of the Union's policy and is guaranteed in accordance with the principle of sustainable development; The objectives of environmental protection are defined (preservation and improvement of environmental quality; protection of human health; reasonable and rational use of natural resources; support for measures taken at the international level and aimed at solving regional and global environmental problems) [13].

In general, environmental policy remains the most important areas of activity of the European Union. An extensive system of environmental legislation has been formed in this area, the norms of which are successfully implemented in practice. It should be recognized that the EU is a world leader in environmental policy, successfully solving many environmental problems of the continent and the world as a whole.

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ЕУРОПАЛЫҚ ОДАҚТЫҢ ҚОРШАҒАН ОРТА МӘСЕЛЕЛЕРІН ШЕШУДЕГІ ЭКОЛОГИЯЛЫҚ САЯСАТЫ

Қоршаған ортаны қорғау саласындағы қолданыстағы стандарттар негізінде Еуропалық Одаққа мүше мемлекеттер ұлттық заңнаманы осы стандарттарға сәйкес келтіруге және практиканың Одақтың нормативтік актілерінде бекітілген мақсаттарға сәйкестігін қамтамасыз етуге міндетті. Еуропалық Одақтың экологиялық саясатын, құзыреті мен құқығын қалыптастыру мен дамытуды талдау осы салада жинақталған оң тәжірибе туралы айтуға негіз береді. Еуропалық Одақта қалыптасқан экологиялық стандарттар мен әзірленген бағдарламалар басқа оңірлердің интеграциялық бірлестіктері үшін ғана емес, сонымен қатар өзінің ұлттық экологиялық заңнамасын дамытуға және жетілдіруге аса мүдделі жақын және алыс шетелдерді қоса алғанда, көрші мемлекеттер үшін де қызығушылық тудырады. Еуропалық Одаққа мүше мемлекеттердің іс-қимыл бағдарламасын, Еуропалық Қоғамдастықтар сотының шешімдерін, Еуропалық Одақ институттарының қоршаған ортаны қорғау саласындағы құзыреті мен нормативтік актілерін әзірлеу нәтижесінде қалыптасатын қатынастар. Еуропалық экологиялық құқықтағы жауапкершілік институты әртүрлі аспектілер тұрғысынан жеткілікті түрде егжей-тегжейлі талданды. Сондай-ақ, Еуропалық Одақтың қоршаған ортаны қорғау саласындағы саясатын, құзыреті мен құқығын қалыптастыру мен дамытуға байланысты саяси-құқықтық аспектілер кешені қаралды. Мақалада келесі міндеттер дәйекті түрде қойылып, шешіледі: Еуропалық Одақтың қоршаған ортаны қорғау саласындағы саясаты мен құзыретінің қалыптасуы мен дамуының негізгі кезеңдерін кезеңге бөлу; мүше мемлекеттердің («жасыл» деп аталатындардың) Еуропалық Одақтың экологиялық құқықтық тәртібін қалыптастыруға қосқан үлесін бағалау; Еуропалық Одақтың Қоршаған ортаны қорғау саласындағы құзыретін қалыптастыру мен дамытудағы еуропалық қоғамдастықтар сотының ролін талдау.

Кілтті сөздер: қоршаған ортаны қорғау, Еуропалық құқық, Экологиялық саясат, Адам құқықтары, Еуропалық Одақ.

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ЭКОЛОГИЧЕСКАЯ ПОЛИТИКА ЕВРОПЕЙСКОГО СОЮЗА В РЕШЕНИИ ПРОБЛЕМ ОКРУЖАЮЩЕЙ СРЕДЫ

На основе существующих стандартов в сфере охраны окружающей среды государства – члены Европейского союза обязаны приводить национальное законодательство в соответствие с этими стандартами и обеспечить соответствие практики целям, закрепленным в нормативных актах Союза. Анализ формирования и развития экологической политики, компетенции и права Европейского союза дает основание говорить о накопленном положительном опыте в данной сфере. Сложившиеся в Европейском союзе экологические стандарты и выработанные программы представляют интерес не только для интеграционных объединений других регионов, но и для соседних государств, включая ближнее и дальнее зарубежье, которые крайне заинтересованы в развитии и совершенствовании своего национального экологического законодательства. Отношения, складывающиеся в результате выработки программы действия государствами-членами Европейского союза, решения Суда Европейских сообществ, компетенция и нормативные акты институтов Европейского союза в сфере охраны окружающей среды. Достаточно подробно проанализирован институт ответственности в европейском экологическом праве в контексте различных аспектов. Также рассмотрен комплекс политико-правовых аспектов, связанных с формированием и развитием политики, компетенции и права Европейского союза в области охраны окружающей среды. В статье последовательно поставлены и решаются следующие задачи: периодизация основных этапов становления и развития политики и компетенции Европейского союза в области охраны окружающей среды; оценка вклада государств-членов (так называемых «зеленых») в становление экологического правопорядка Европейского союза; анализ роли Суда Европейских сообществ в становлении и развитии компетенции Европейского союза в сфере охраны окружающей среды.

Ключевые слова: охрана окружающей среды, европейское право, экологическая политика, права человека, Европейский союз.

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