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ЗДОРОВ'Я НАВКОЛИШНЄ
ПРИРОДНЕ СЕРЕДОВИЩЕ:
ПОЛІТИКА ПРОТИ ПРАВА ОСОБИ**

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У цій статті подано аналіз та подаються висновки щодо війни та умов післявоєнної відбудови через призму екологічної безпеки. Це проблеми сьогодення, які стосуються кожного жителя планети і від яких залежить майбутнє людства. Серед них екологічні проблеми. Йдеться про будь-які зміни стану навколишнього середовища, які можуть погіршити умови життя людини та порушити структуру та функціонування природних систем. Це й проблеми використання невідновлюваних ресурсів, питання відновлення відновлюваних ресурсів, гармонізації взаємовідносин людини і природи, охорони навколишнього середовища, екологічної безпеки кожного з нас. Право людини на безпечне для життя і здоров'я довкілля нерозривно пов'язане з питаннями безпеки – від глобальної до індивідуальної.

У зв'язку з поглибленням глобальної екологічної кризи, загостренням інших глобальних проблем та війною в Україні все більшого значення набувають національні та міжнародні заходи щодо вирішення окремих питань екологічної безпеки.

На сучасному етапі в Україні формально існує переважна більшість економіко-правових та економіко-організаційних механізмів вирішення екологічних проблем: екологічне законодавство та система нормативів, економічні платежі,

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**NATURAL ENVIRONMENT SAFE
FOR LIFE AND HEALTH: POLITICS
VERSUS INDIVIDUAL RIGHTS**

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This article presents an analysis and conclusions about the war and post-war reconstruction conditions through the lens of environmental security. These are today's problems that affect every inhabitant of the planet and on which the future of humanity depends. Among them are environmental problems. It is about any changes in the state of the environment that can worsen the conditions of human life and disrupt the structure and functioning of natural systems. These include the problems of using non-renewable resources, the issue of restoring renewable resources, harmonizing the relationship between man and nature, protecting the environment, and the ecological safety of each of us. The human right to an environment safe for life and health is inextricably linked to issues of security - from global to individual.

In connection with the deepening of the global environmental crisis, the aggravation of other global problems and the war in Ukraine, national and international measures to solve certain issues of environmental security are becoming more important.

At the current stage, the vast majority of economic-legal and economic-organizational mechanisms used to solve environmental problems formally exist in Ukraine: environmental legislation and a system of standards, economic payments, fines and taxes, environmental funds with

штрафи та податки, екологічні фонди з власними джерелами фінансування. Без зайвих зусиль можна запровадити більш тонкі інструменти – екологічне страхування, продаж квот на забруднення тощо. При цьому виникає ситуація, коли місцева влада більше зацікавлена не в реальному зменшенні забруднення навколишнього середовища, а насамперед в отриманні штрафів за перевищення норм природокористування. При цьому самі підприємства також надають більшу перевагу штрафам (іноді їх неможливо сплатити через різноманітні прогалини в законодавстві України), ніж природоохоронним заходам, які є досить дорогими, складними у виконанні (навіть за наявності коштів). наявні) через слабо розвинутий ринок клінінгового обладнання та, в цілому, неефективний через зношеність основних виробничих фондів.

Загалом, перед людством стоїть багато викликів, які ми повинні вирішити. Першопричиною більшості екологічних проблем є антропогенна діяльність, яка призводить до значних змін екосистем. Такі зміни потребують оперативного реагування з боку держави. Йдеться про зміну державної політики. Саме так держава зможе ефективно забезпечувати права особи. Ще ефективнішим способом захисту навколишнього середовища є співпраця з екологічними організаціями. Наприклад, необхідно сприяти фіксуванню російських військових злочинів проти довкілля, що дозволить у майбутньому поставити питання про відшкодування збитків і відновлення екосистем для забезпечення екологічної безпеки в державі.

Ключові слова: екологічна безпека, життя і здоров'я людини, право, захист, державна екологічна політика, природокористування, сталий розвиток

their own sources of financing. More subtle tools can be introduced without too much effort - environmental insurance, sale of pollution quotas, etc. At the same time, a situation arises when local authorities are more interested not in the actual reduction of environmental pollution, but primarily in receiving fines for exceeding the norms of nature use. At the same time, the enterprises themselves also give greater preference to fines (sometimes they cannot be paid, given the various lacunae in the legislation of Ukraine) than to environmental protection measures, which are quite expensive, difficult to implement (even if funds are available) due to the poorly developed market for cleaning equipment and, in general, ineffective due to wear and tear of the main production assets.

All in all, humanity faces many challenges that we must solve. The root cause of most environmental problems is anthropogenic activity, which leads to significant changes in ecosystems. Such changes require prompt response from the state. It is about changing state policy. This is how the state will be able to effectively ensure individual rights. An even more effective way to protect the environment is cooperation with environmental organizations. For example, it is necessary to help record Russian war crimes against the environment, which will allow in the future to raise questions about compensation for damage and restoration of ecosystems to ensure environmental security in the state.

Keywords: environmental safety, human life and health, law, protection, state environmental policy, nature management, sustainable development

Climate change has been actively discussed for more than half a century. Despite the initial skepticism, scientists now generally agree that it is the anthropogenic factor that influences the acceleration of climate change and scales many processes. And during COP27 (Climate Plans, 2022), a new UN report was presented, which testifies to the reduction of global greenhouse gas emissions by countries, and the apparent inadequacy of these efforts to limit the increase in global temperature to 1.5°C by the end of the century. Therefore, we should expect more and more pronounced manifes-

tations of the Earth's climate change.

The war and the conditions of post-war reconstruction are the problems of today, which affect every inhabitant of the planet and on which the future of humanity depends. Among them are environmental problems. It is about any changes in the state of the environment that can worsen the conditions of human life and disrupt the structure and functioning of natural systems. These include the problems of using non-renewable resources, the issue of restoring renewable resources, harmonizing the relationship between man and nature, protecting the environment, and the ecological safety of each of us. The human right to an environment safe for life and health is inextricably linked to issues of security - from global to individual.

Environmental security in relation to national security. In connection with the deepening of the global environmental crisis, the aggravation of other global problems and the war in Ukraine, national and international measures to solve certain issues of environmental security are becoming more important (Marta K., 2021; Zakharina O., 2020). This is due to the following circumstances:

- scientifically proven existence of phenomena of the greenhouse effect, destruction of the ozone layer, poisoning of the atmosphere, water and soil with toxic compounds, heavy metals and other threats to human existence that do not recognize state borders;

- environmental security is inseparable from the national security of the state;

- environmental security concerns not only the international policy of each state separately, but also becomes an integral component of the foreign policy of an increasing number of states of the world, is an important factor in the internal political struggle of these states;

- environmental problems become a constant source of complications or tension in interstate relations, which entails mainly negative consequences ("environmental" refugees, significant industrial accidents, etc.);

- environmental threats spread not only with the help of natural processes. A person, entering into international economic relations, also contributes to these processes (trade in toxic chemicals, fertilizers and other types of products, use of environmentally hazardous technologies, production with hazardous waste);

- reassessment by individual states of their own national interests (export of toxic waste to underdeveloped countries, burial of nuclear waste on the territory of other states, placement of ecologically unsafe industries outside the borders of their own country);

- war (armed conflict) on the territory of Ukraine, which requires constant attention, as it is the site of environmental disasters.

The emergence of prospects for cooperation between Ukraine and NATO in the field of environmental security led to the establishment of appropriate relations within the framework of the Charter on the Special Partnership of Ukraine with NATO and its structures: mutually beneficial cooperation is developing in the field of environmental security and in the field of disaster management; improvement of response capabilities at the regional level and coordination (coordination) of actions during liquidation of the consequences of disasters not only of a global but also of a regional nature is envisaged (Aleksievets M. M., 2023). This question arises most acutely at the present stage. Such cooperation requires the formation of an effective model of ecologically sustainable development, and the Constitution of Ukraine currently allows for its formation. An international environmental order for all states is the best solution.

Its principles are and must continue to be:

- introduction of upper limits of maximum permissible concentrations of man-made compounds, which are mandatory for all states, and international control over their compliance;

- improvement of the existing and creation of new administrative and political mechanisms of international responsibility related to the occurrence of transboundary environmental damage;

- creation of an international mechanism for environmental monitoring and control;

- implementation of international environmental expertise for all new significant nature-use projects;

- the responsibility of states for the destruction of ecosystems within the territorial borders of these states;

- the responsibility of states for the destruction of ecosystems within the occupied territories;
- determination of the lower limit of acceptable quality of life and creation of an economic mechanism for its provision;
- creation of mechanisms for stimulating the transfer, distribution and implementation of "clean" technologies.

At the current stage, the vast majority of economic-legal and economic-organizational mechanisms used to solve environmental problems formally exist in Ukraine: environmental legislation and a system of standards, economic payments, fines and taxes, environmental funds with their own sources of financing (Wu Q, 2019). More subtle tools can be introduced without too much effort - environmental insurance, sale of pollution quotas, etc. At the same time, a situation arises when local authorities are more interested not in the actual reduction of environmental pollution, but primarily in receiving fines for exceeding the norms of nature use. At the same time, the enterprises themselves also give greater preference to fines (sometimes they cannot be paid, given the various lacunae in the legislation of Ukraine) than to environmental protection measures, which are quite expensive, difficult to implement (even if funds are available) due to the poorly developed market for cleaning equipment and, in general, ineffective due to wear and tear of the main production assets.

According to the Law of Ukraine "On Environmental Protection" dated June 25, 1991 No. 1264-XII (hereinafter - the Law), ensuring the environmental safety of human activities is an integral condition for the sustainable economic and social development of Ukraine. For this purpose, Ukraine implements an environmental policy on its territory aimed at preserving the environment safe for the existence of living and non-living nature, protecting the life and health of the population from the negative impact caused by environmental pollution, achieving a harmonious interaction of society and nature, protection, rational use and reproduction of natural resources.

The law also details and clarifies the concept of environmental safety as such a state of the natural environment, which ensures the prevention of deterioration of ecological conditions and the occurrence of danger to human health. Environmental safety is guaranteed to the citizens of Ukraine by implementing a wide range of interrelated political, economic, technical, organizational, state-legal and other measures (Article 50). It is sometimes assumed that the definition of environmental safety in Art. 50 is presented in both an objective and subjective sense (taking into account that the Law guarantees a certain legal possibility, that is, the subjective right of citizens, which is also enshrined in Article 50 of the Constitution of Ukraine).

Currently, ensuring environmental safety, creating safe conditions for human life, in particular in territories affected by hostilities, building an effective civil defense system is one of the directions for ensuring the fundamental national interests defined by the Constitution of Ukraine and the Law of Ukraine "On National Security of Ukraine" and ensuring of national security (paragraphs 5-6 of the National Security Strategy of Ukraine, approved by the decision of the National Security and Defense Council of Ukraine dated September 14, 2020 and put into effect by the Decree of the President of Ukraine No. 392/2020 dated September 14, 2020). So, the fundamental national interests of Ukraine are:

- 1) state sovereignty and territorial integrity, democratic constitutional order, non-interference in the internal affairs of Ukraine;
- 2) sustainable development of the national economy, civil society and the state to ensure the growth of the level and quality of life of the population;
- 3) integration of Ukraine into the European political, economic, security, and legal space, acquisition of membership in the European Union and the North Atlantic Treaty Organization, development of equal and mutually beneficial relations with other states.

In general, state policy in the spheres of national security and defense is aimed at ensuring military, foreign policy, state, economic, informational, environmental security, cyber security of Ukraine, etc.

Environmental safety regulations. The Law of the Ukrainian SSR "On Protection of the Natural Environment" dated June 25, 1991 No. 1264-XII in the first (initial) edition contained a system of environmental regulations, which included:

a) environmental safety standards (maximum permissible concentrations of pollutants in the surrounding natural environment, maximum permissible levels of acoustic, electromagnetic, radiation and other harmful physical effects on the surrounding natural environment, maximum permissible content of harmful substances in food products);

b) maximum permissible emissions and discharges into the surrounding natural environment of polluting chemical substances, levels of harmful effects of physical and biological factors.

In addition, this Law stated that regulations for the use of natural resources and other environmental regulations may be established by legislation.

Basic environmental standards must meet the requirements of protecting the natural environment and human health from the negative impact of its pollution. Norms of maximum permissible concentrations of pollutants in the surrounding natural environment and levels of harmful physical effects on it are uniform for the entire territory of the Ukrainian SSR (Derevyanko B., 2019). If necessary, stricter standards of maximum allowable concentrations of pollutants and other harmful effects on the natural environment could be established for resort, medical and recreational, and other separate areas.

Environmental standards were developed and implemented by the Ministry of Environmental Protection of the Ukrainian SSR, the Ministry of Health of the Ukrainian SSR and other authorized state bodies in accordance with the legislation of the Ukrainian SSR.

Currently, the Law of Ukraine "On Protection of the Natural Environment" in the version dated 01.01.2021 contains Article 33 "Environmental regulations", which refers only to environmental regulations that establish the maximum permissible emissions and discharges into the environment of polluting chemical substances, the levels of permissible harmful effects physical and biological factors on it.

Of course, this Law contains a caveat that the legislation of Ukraine may establish standards for the use of natural resources and other environmental standards. They must be established taking into account the requirements of sanitary and hygienic and sanitary and anti-epidemic rules and norms, hygienic standards. If necessary, stricter standards of maximum allowable concentrations of pollutants and other harmful effects on the natural environment may be established for resort, medical and recreational, and other separate areas.

It is positive that the norms of maximum permissible concentrations of pollutants in the surrounding natural environment and the levels of harmful physical and biological effects on it have remained uniform for the entire territory of Ukraine.

The wording on the development and implementation of environmental standards is quite vague. Such entities are defined as the central body of the executive power, which ensures the formation of state policy in the field of environmental protection, and other state bodies authorized to do so in accordance with the legislation of Ukraine.

The exclusion from the Law of Ukraine "On Protection of the Natural Environment" of provisions on environmental safety standards is connected with the adoption of the Law of Ukraine "On Ensuring the Sanitary and Epidemic Welfare of the Population", when the Verkhovna Rada of Ukraine decided to amend Part 1 of Article 33 of the Law of Ukraine "On Protection of the natural environment" and put it in the following wording: "Environmental regulations establish the maximum permissible emissions and discharges into the natural environment of polluting chemical substances, the levels of permissible harmful effects of physical and biological factors on it".

The environment is safe for life and health

According to the semantic content, the standard is a quantitative and qualitative indicator, according to which certain work is carried out, something is carried out, and which is the basis for assessing compliance in the future. The regulation is the content and must have a wrapper or external manifestation - a regulatory act. If we also consider the term "normative", we will learn about its Latin roots. This term corresponds to our "ordering" or "ordered". The content that was originally embedded in these concepts is essential - they should be responsible for the proper organization of relations in society (Hoye J., 2024).

The legally enshrined (at the time) concept of environmental safety standards actually does not

deny their semantic content and clearly indicates the number - maximum permissible concentrations (MPC), maximum permissible levels (MPL), maximum permissible content (MPC) - and quality control objects - pollutants in the natural environment, acoustic, electromagnetic, radiation and other harmful physical effects on the natural environment, harmful substances in food products.

Later, these safety indicators were excluded from the basic law.

In numerous scientific works of a legal and other nature, it is stated that only in recent years a paradoxical situation has developed: the world civilization has achieved impressive successes and at the same time found itself on the verge of its destruction. A number of global problems (the growth of the Earth's population, the worsening of the energy crisis and the beginning of wars for energy resources, food shortages and population poverty, epidemics, terrorism, other influential regional and global environmental problems) cause ecological conflict situations, i.e.: disturbance of the balance in ecosystems (biogeocenoses); local or regional deterioration of the environment (pollution of the atmosphere, water, soil degradation, etc.) due to human activity or the destructive influence of natural forces, which endangers human health, the preservation of natural objects and limits economic activity; armed conflicts, etc.

The lack of a comprehensive understanding of environmental safety standards in the Basic Law on Environmental Protection only worsens the situation and does not allow to fully ensure the rights of Ukrainian citizens to an environment safe for life and health, especially in wartime conditions.

All in all, humanity faces many challenges that we must solve. The root cause of most environmental problems is anthropogenic activity, which leads to significant changes in ecosystems. Such changes require prompt response from the state. It is about changing state policy. This is how the state will be able to effectively ensure individual rights. An even more effective way to protect the environment is cooperation with environmental organizations. For example, it is necessary to help record Russian war crimes against the environment, which will allow in the future to raise questions about compensation for damage and restoration of ecosystems to ensure environmental security in the state.

Посилання:

1. Aleksievets, M. M. , Aleksievets, L. M., Znak, V. M. (2023). UKRAINE – NATO: HISTORIOGRAPHY OF RELATIONS (1991–2020). Pages of history, (55). <https://doi.org/10.20535/2307-5244.55.2022.269746>

2. Climate Plans Remain Insufficient: More Ambitious Action Needed Now (2022). UN Climate Press Release. October, 26. 2022. URL: <https://unfccc.int/news/climate-plans-remain-insufficient-more-ambitious-action-needed-now>

3. Derevyanko, B. V., Rieznik, O. M., Shlapko, T. V., & Popovych, T. G. (2019). Fundamentals of a national standardization system as a means confirming the quality and innovation of products: experience of international organizations in Ukraine and Canada. *Marketing and Management of Innovations*, 1, 314-324. <https://doi.org/10.21272/mmi.2019.1-26>

4. Hoyer, J., Hednäs, G., Rowland, M., Sodhi, U., Kantorowicz, J (2024) On the Term “Environmental Refugee”: Normative Assumptions and Empirical Realities. *Political Studies Review*. First published online February 5, 2024. <https://doi.org/10.1177/1478929924122661>

5. Marta, K., Dmytro, Z. KEY ASPECTS OF THE IMPACT OF INDUSTRY 4.0 ON THE ECONOMIC SECURITY OF THE STATE (2021) *Social and Legal Studies*, 4 (4), pp. 117-122. <https://sls-journal.com.ua/en/journals/tom-4-4-2021/klyuchovi-aspekti-vplivu-industriyi-4-0-na-ekonomichnu-bezpeku-derzhavi> doi: 10.32518/2617-4162-2021-4-117-122

6. Wu, Q (2019) Research on the Tax Risk of Small and Medium-sized Enterprises Based on Life Cycle and Its Countermeasures. *PROCEEDINGS OF THE 2019 4TH INTERNATIONAL CONFERENCE ON FINANCIAL INNOVATION AND ECONOMIC DEVELOPMENT (ICFIED 2019)*. Vol. 76. Page 134-137.

7. Zakharina, O., Khodakivskii, E., Iakobchuk, V. Explication of the concept of «public-private partnership» in public administration theory (2020) *Scientific Horizons*, (3), pp. 26-33. <https://sciencehorizon.com.ua/en/journals/3-88-2020/yeksplikatsiya-ponyattya-dyerkhavno-privatnye-partnyerstvo-v-tyeoriyi-publichnogo-upravlinnya> doi: 10.33249/2663-2144-2020-88-3-26-33

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