

I. *Нормативна основа механізму*, яку складають норми права, нормативно-правові акти, що закріплюють засоби правового захисту, повноваження суб'єктів захисту прав та процесуальні аспекти правового захисту;

II. *Організаційна основа* пов'язується із суб'єктами, які забезпечують захист (спеціальні органи держави, посадовці, інститути громадянського суспільства), що звертаються за захистом;

III. *Змістовні елементи*, що включають зміст прав та свобод, що порушуються; правозахисні засоби; статусні повноваження суб'єктів; обов'язки як гарантія захисту прав;

IV. *Правозахисні та компенсаційні елементи*, що включають засоби недопущення та припинення порушень суб'єктивних прав; засоби відновлення прав; можливості звернення до міжнародних інституцій.

V. *Примусові елементи*, що включають різні види юридичної відповідальності як засобу порушених прав.

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EFFICIENCY OF ENVIRONMENTAL ACTIVITY OF THE STATE AS IMPORTANT DIRECTION OF PROVIDING OF ENSURING PUBLIC HEALTH PROTECTION

The problem of the efficiency of legal activity occupies one of the fundamental places in the system of scientific interests of theory and philosophy of law. This is not a coincidence, since any phenomenon or process in jurisprudence is characterized primarily by its effectiveness in society, the legal system, and only if their proper functioning brings a positive result, it has its value and, accordingly, is of scientific interest. In legal science, understanding of efficiency is quite debatable, which is caused by the ambiguity of understanding of the concepts of "legal effect", "legal consequence" and "legal result". Today, two classical doctrinal approaches have emerged and they consider the phenomenon of efficiency in law as:

- the direction of influence of state-legal institutions, which is manifested as a result of their functioning, which can be revealed through the prism of the correlation of their tasks and achieved political and legal consequences;
- a complex phenomenon involving the social purpose of the relevant state-law institutions and determines their practical value, which constitute an independent object of cognitive dimension through the prism of the relevant system of research criteria.

Considering these approaches, of course, we stick to the latter, since we believe that in this case the peculiarity of the efficiency of the activity of the state is revealed through the prism of the relevant criteria, thereby the peculiarities of the legal consequences are determined that have arisen as a result of its functioning, including in the environmental field.

The environmental direction of the state began to develop especially in recent decades, which is associated with the progressive deterioration of the environment of the planet. Development of modern production (extraction of minerals, development of chemistry, metallurgy, etc.), application of the latest technologies by which a person breaks the natural equilibrium that has developed over millions of years, the appearance of a large amount of waste, including the results of nuclear production, have a negative impact on the ecosystem, have irreversible consequences. An example of this is the Chornobyl disaster in Ukraine, which at a constitutional level is recognized as a catastrophe on a planetary scale. Therefore, the state is increasingly engaged in activities related to the restoration of equilibrium.

Today, there is a direct correlation between environmental pollution and significant deterioration of public health, negative changes in its gene pool. In such circumstances, the relevance and importance of the right of citizens to a safe and healthy environment is particularly acute. The protection and restoration of the environment, as a general system of human life support, is becoming a priority of the state in terms of preserving the gene pool of the people of Ukraine, as well as the prospects of environmental, economic and social development. Important in this respect is that the human right to a clean environment in the constitutions of modern states is considered to be the legal basis for the legal fixing of the ecological function of the state. Sustaining the environment for present and future generations in modern law theory and constitutional practice is regarded as a common duty¹.

1 Zarzhitskyi O. S. (2012). Actual problems of legal support of environmental policy of Ukraine (theoretical aspects). D: National Mining University, 43–44.

The broad interest in the problems of interaction between nature and society, the state of the environment, as well as other aspects of the environmental problem that have become widespread in the last few decades, certainly has good reasons. The state of nature in the modern world indicates that the human world is on the verge when its activity threatens the existence of nature and man. The intensive use of the environment, the use of a number of modern technologies, poaching, lead to negative effects that are reflected on ecological systems, in particular related to pollution of air, land and water sources, high radiation, pose a threat to flora and fauna, health and human life. In such circumstances, when human society balances on the brink of survival, it is the state organization, which is the influential organizer and regulator of social relations, that has the capacity and must stop the appropriate processes.

Scientific research of any problems of state-legal reality requires the determination of the methodological potential of conducting a relevant scientific search. That is, it is necessary to establish the features of the methodology of scientific knowledge, which should ensure the comprehensiveness, objectivity and effectiveness of research. In view of this scientific study of the effectiveness of environmental activities of the state as a component of the system of public health protection requires the identification of features and functionality of the principles of scientific knowledge, methodological approaches, research methods, as well as predicting the scientific consequences that can be achieved through the application of appropriate methodological approaches and methods of scientific knowledge.

Methodologically, the scientific study of the theoretical and legal and practical problems of the effectiveness of the state's environmental activity as an important direction of ensuring public health is considered as requiring the accumulation and application of a wide range of components of the methodological basis of jurisprudence. Given the peculiarities of the subject matter of this study, it is based on a system of principles of scientific knowledge, methodological approaches and methods of scientific research, which in an organic combination can ensure the comprehensiveness, objectivity and effectiveness of research. First of all, we should pay attention to the system of principles of scientific knowledge (objectivity, systematicity, professionalism, comprehensiveness, responsibility, publicity, etc.), which determine the system of ideas and provisions that form the basis of any scientific research, including they are related to the study efficiency of environmental activity of the state. In addition to the principles of scientific knowledge that form

the basis of any scientific activity, methodological approaches occupy an important place in the methodology of this work. First of all, we must pay attention to the functional approach, which is universal in nature, applied in various sciences, the main idea of which is to study the functional purpose of any phenomenon that is the subject of scientific research, its place and role among the phenomena of legal reality. Functional approach in the context of the subject of our work plays a key role, as it as a whole provides an opportunity to reveal the problems of the effectiveness of environmental activities of the state as an important direction of the functional purpose of the state in the areas of ecology and public health. Functional approach also allows to define criteria of efficiency of ecological activity of the state, method of their application and generalization of the obtained results, which will allow to conceptualize the idea of efficiency of activity of the state as a whole and its manifestation in the fields of ecology and public health protection.

However, a functional methodological approach to understanding the effectiveness of the state's environmental activity as an important area of public health, while defining the overall cognitive strategy of this work, characterizes the problematic issues in the general context, which requires specifying its application through the involvement of various methods of scientific research. The scientific research methods ensure the objectivity, effectiveness, reliability, specificity and unity of scientific research and intended scientific results.

Efficiency of environmental activity of the state in the system of public health protection, as a cognitive problem, requires the application of the system: philosophical and ideological methods that ensure the study of these problems through the plane of the general conception of the universe and its exceptional value (condition) of safeguarding one's life and health; general scientific methods, which focus on the objectively conditioned nature of environmental activity of the state as a prerequisite for the effective implementation of the health function of the population, which has a scientific nature and requires study at the level of various social sciences; special scientific methods that ensure the study of the effectiveness of environmental activities of the state as a phenomenon of public-law plan.

Thus, the methodological basis of scientific research into the effectiveness of environmental activity of the state as an important direction of ensuring public health is a system of scientific principles, methodological approaches and methods of scientific knowledge, which allow to formulate the provisions, ideas and concepts on which the scientific research is based, to open outlook and general approaches to

characterization of qualitative properties of environmental activity of the state, as well as to conduct research within clearly defined methods of scientific knowledge, used to study the effectiveness of the state environmental facility as cognitive dimension through the prism of the relevant system of criteria (historical, legal, categorical, system-structural, functional, prognostic, etc.).

The activity of the state in the field of ecology as an important direction of health protection of the population, first of all, is manifested in the implementation of its ecological function². The ecological function of the state has become especially prominent in recent decades, due to the progressive deterioration of the natural environment of the planet.

Therefore, the current state of the environment, its safety and development is one of the priority directions of the state's activity, as well as a strong basis for cooperation of states at the international level, adherence to the standards, principles and norms of international law in the field of ecology and development of programs for the implementation of proper environmental protection of population at the domestic level.

That is why, the soundness of understanding the essential and characteristic aspects of the ecological function of the state is based not only on the study of its content, legal nature, but also has an important practical – legal direction, which allows to determine its place and importance in the process of modern development of states, on the one hand, and identify the features of the state's activities in the environmental direction, on the other one.

With respect to the ecological state, the understanding is similarly broad. The term is associated with a significant governmental focus on managing environmental burdens. It describes arrangements that may be taking shape in the developed countries today, where ecologically oriented intervention comes to constitute and is generally acknowledged to constitute legitimately-an essential responsibility of the public power. It denotes government programs dedicated to controlling environmental impacts and adjusting patterns of socioecological interaction to avoid ecological risks and enhance ecological values, to the institutions charged with such activity, and to the politico-ideological legitimation of such practice. In the conventional idiom, an ecological state would be one committed to sustainable development, to securing a social

2 Kostytskiy V. V. (2016). Ensuring the right to a favorable environment as a key ecological state. Materials of international scientific-practical conferences «Social and legal, political, economic and ecological component providing of favorable vital space of man: theoretic-methodological and practice problems of development of environmental law and legal safeguard of environment», 79–80.

development trajectory that remains within the frontiers of environmental sustainability. As defined in this way, the ecological state implies something more than traditional environmental policy, which emerged in developed countries from the late 1960s, and was largely understood as a post hoc adjunct of «normal" economic and administrative activity³.

The article discusses the theoretical and methodological problems of actively developing in modern conditions ecological culture, determining its place in the system of humanities. The growing importance of new conception of scientific research and sociocultural practices in the context of the global problems of our time is determined⁴.

The ecological function of the state is one of the fundamental ecological directions of modern activity of the state aimed at protecting the environment and combating the negative factors related to pollution of the air, land and water resources of the state, high radiation and posing a significant threat to the animal and plant life, human health and life. In addition, the state's activity in the environmental sphere determines its intention, in the person of state bodies and officials, to ensure the proper level of ensuring and guaranteeing the rights of its citizens for ecological well-being, a "healthy" natural environment, and promotes the proper functioning of the natural environment of the states – neighboring countries.

Among other things, in the process of determining the place of the ecological function of the state in the system of its internal and external functions, it is necessary to take into account the fact that the modern ecological function of the state has a global character. This implies, in our understanding, its planetary and bipolar content, namely the scale of implementation at national and international levels.

Obviously, in terms of Ukraine, it is promising to define a new role for the state in the face of an exacerbated environmental problem. In this context, it is important to combine effective state regulation of the defining areas of environmental safety of the population with the activities of environmental organizations and structures that are able to produce the latest technologies and solutions to environmental problems of the present, and therefore preserve the health of the population as a whole.

3 Meadowcroft James (1997). Planning, Democracy and the Challenge of Sustainable Development, *International Political Science Review*, 18, 167–190.

4 Kapto, A., Uvarova, G., Mamychyev, A., Ponedelkov, A., & Vorontsov, S. (2019). Ecological culture of political perception of global environmental problems. *Amazonia Investiga*, 8(20), 80–90.

Today in Ukraine, the share of relatively clean territories is 7–8 %, poorly polluted territories – 15 %, dangerous for human life – 70 %⁵. About 30 % of the population's diseases are caused by atmospheric pollution⁶.

The poor state of many of the world's ecosystems is affecting the likelihood of reaching economic and human development goals, including better health for the world's poor. It is an enormous challenge to halt degradation and restore ecosystems⁷.

Therefore, considering the experience of independence, it is possible to formulate a conclusion on the need for more complete and effective use of state-legal and organizational-administrative mechanisms for environmental protection. At the same time, it should be taken in a new way that the development of society and all its institutions, including the state and law, is a natural-historical process, which develops according to certain objective laws. It is clear that in this approach the purposeful formation of state-legal systems according to a pre-designed plan looks utopian. However, the transition to the stage of sustainable development of civilization as a qualitatively new form of interaction between society and nature and the environment presupposes a systematic evolutionary change of the state legal mechanism.

After independence, Ukrainian scientists, politicians, government officials, taking into account the negative experience of solving environmental problems in the administrative-command system of the former USSR, focused on the introduction of economic management methods in the field of environmental protection, public health and use of natural resources. The last decade has shown that it is premature to reject administrative capacity in this area. Without effective management, administrative control and influence, the economic levers of ensuring environmental requirements in economic activity are ineffective. Therefore, an effective economic and legal mechanism, built on the interaction of administrative and economic means of solving environmental problems and ensuring sustainable development, should be based on the implementation of the environmental strategy in the direction of public health in modern conditions.

With continuing alteration of the land by human activity, many ecosystems have become fragmented or reduced to isolated islands surrounded by agricultural fields or developed areas. Currently, one of the effective economic and legal mechanisms is ecological management as the key to successful stewardship and

5 Maliuk O. S. (2013), Formation of an ecologically balanced investment strategy of the enterprise, 47–49.

6 Mashnenkov K. (2016), Problems and perspectives of development of Ukraine as ecological state. Public Administration and Local Government, 3(30), 22–26.

7 Facya A., Orozco and Donald C. Cole, (2012). Tackling Challenges to Farmers' Health and Agro-Ecosystem Sustainability in Highland Ecuador. Ecohealth Research in Practice: Innovative Applications of an Ecosystem Approach to Health, 48–49.

can be subdivided into five general categories: conservation planning, restoration, prescribed management, research and monitoring⁸.

It is clear that the current stage and features of the state's implementation of the ecological function are characterized by two opposite processes. On the one hand, it is the intensification and deepening of globalization processes. On the other hand, there are some tendencies towards solving their own environmental problems at the expense of other countries. The dominance of the second trend calls into question the possibility of averting a global environmental catastrophe and ensuring effective cooperation in the field of state environmental policy.

That is why the decisive objectives of the state in the field of ecology, aimed at public health are:

- balancing human demands, opportunities for nature and production technologies by systematically shaping the environment, the quality of which would ensure the sustainable development of society;
- improving the quality of life with optimal use and reproduction of natural resources;
- ecological improvement and reproduction of disturbed ecosystems, first of all of the basin ones;
- creation of ecological preconditions for transition to sustainable development, especially in ecologically depressed territories;
- internal integration of environmental requirements and ensuring the implementation of the principle of decentralization in the system of relevant bodies and organizations whose activities are aimed at preserving and protecting the environment;
- implementation of international standards, regulations of systematic environmental management; democratization of the decision-making process and increased responsibility for their execution.

At the same time, it is obvious that the decisive goal of the state's activity in the ecological sphere is not only the restoration of the existing ecosystem, but also the preservation and protection of public health, since all processes in the biosphere are interdependent. Humanity is only a small part of the biosphere, and man is only one of the organic species.

For centuries, man has sought not to adapt to the natural environment, but to make it comfortable for its existence. Now we have realized that any human activity has an impact on the environment, and the deterioration of the state of the biosphere

8 Alonso M. and Rubio I. (2008). Ecological Management: New Research, Toronto, Canada.

is dangerous for all living things, including humans. Comprehensive study of man, his relationship with the outside world led to the understanding that health is not only the absence of disease, but also the physical, mental and social well-being of man. Health is the capital given to us not only by nature from birth, but also by the conditions in which we live⁹. Therefore, the task of the state in the environmental field has a dual nature. On the one hand, it is overcoming the negative trends in the development of modern production and technological spheres, reducing resource and energy costs. On the other hand, it is the improvement of the ecology of man himself as a system of human-environment interaction which is a criterion for the efficiency of functioning of which is a high level of health of the population.

So long as human ecology necessarily integrates with the environment, it can be assumed that there are two environmental models: open and closed. A closed model of the environment created by nature millions of years ago and provides for a completely waste-free production. An open model of the environment began to exist ever since man proclaimed himself the "king of nature". Since then, he has begun to return streams of rivers, level mountains, fill heaps, pollute the environment¹⁰.

In addition, a large number of various anthropogenic factors, the main among which are chemical (air emissions of chemicals coming from industry, transport, heat, wastewater from industrial waste; soil contamination by various heavy metals and radionuclides that enter the water, agricultural plants and through the food chain in the bodies of animals and humans) also significantly impair the health of mankind. Therefore, an important regulator of the balanced coexistence of mankind and the environment should be the proper state and legal support for these processes.

At the same time, strengthening the role of the state, both in the country and in the system of international relations, does not mean that the full burden of the transition to sustainable development should be concentrated on the state without its interaction with civil society.

So, the modern state has no choice: threats of ecological catastrophe of a planetary scale or regional ecological catastrophes and other challenges in the sphere of interaction of society and environment determine not only the change of the content of the state activity in this sphere of social relations, the reorientation of its ecological function to ensure environmentally friendly life, but also the development of state-public partnership to preserve the living space of man and society.

9 Dudnikova I. I. (2014). Human ecology as a promising direction of interdisciplinary synthesis and organization of scientific knowledge. *Humanities Bulletin of ZDIA*, 59, 204–214.

10 Moroz S. V., Bushovska L. B. (2004). Ecological economy. Available at: https://de.khnu.km.ua/k_default.aspx?MR=k0979

This means that if nothing is done to take care of the environment, occurrence of numerous disaster situations is only a matter of time¹¹.

At the same time, in the modern conditions of global development, environmental problems of social life objectively take a back seat under the pressure of the existing war in Ukraine, and therefore the danger of the outbreak of a world war and regional military conflicts, terrorism, ethnic resettlement, economic wars, with which the modern state and international organizations are often already unable to cope. However, in our civilization there is no more efficient institute for solving problems, including the environmental problems of today, than the state and international organizations. Hence, the state will for a long time remain the most effective of the existing models of regulation of social processes, including and above all, relations in the field of public health and use of natural resources. That is why, the science of environmental law, the theory of law, the sociology of law must be forced to seek new opportunities of law and the state in order to solve environmental problems of the present. The ecological state is one of the ways of overcoming the crisis of the modern state's ability to preserve the environment for present and future generations of people.

Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided¹².

In this way, the state views its citizens as the tree of Government. The tree of Government will, in the words of President Lincoln, «perish from the earth» if the natural environment from which it derives its sustenance, is in any way compromised or polluted; if its executive, legislature and judiciary branches act in a manner that ignores the will of the people and does not protect and advance the people's well-being¹³.

11 Environmental Situation in the Occupied Territories (2019). National Security and Defence Magazine, 1-2 (177-178), 62-65. Retrived from: http://razumkov.org.ua/uploads/journal/eng/NSD177-178_2019_eng.pdf

12 Manual on human rights and the environment, (2012). Council of Europe. Retrived from: https://www.echr.coe.int/LibraryDocs/DH_DEV_Manual_Environment_Eng.pdf

13 Almagro L. (2015). Forewords, Inter-American Congress on the Environmental rule of low, Selected essays, 6. Retrived from: http://www.oas.org/en/sedi/dsd/EnvironmentalRuleOfLaw_SelectedEssay_English.PDF

It is established that modern society is increasingly turning to the need to study the ecological component of human being in the direction of a comprehensive and balanced solution to urgent environmental problems that are directly related to public health protection. An important subject that is able to form directions and ways of providing of maintenances of health of society and really to incarnate them and effectively realize there is the state itself. That is why it has been established that the decisive goal of the state's ecological activity in the current crisis ecological conditions is to balance the environmental interests of society, the opportunities of nature and the development of modern technologies. The stated goal can be achieved by improving the quality of life with the optimal use and reproduction of natural resources.

In the course of the scientific research, we have come to the conclusion that the efficiency of the state's environmental activity will be high if it meets certain criteria:

- guarantee of environmental rights and freedoms;
- the existence of a constitutionally enshrined environmental function and environmental responsibilities to society and man;
- formation of the developed system of environmental law;
- creation of institutional framework for ensuring realization of the ecological function of the state;
- the existence of a balanced economic and legal mechanism for environmental protection;
- successful functioning of independent public control over the implementation of environmental legislation;
- affirmation of the principle of joint responsibility of the state and society for the future living environment;
- the existence of a public environmental dialogue between society and the state, within which the human right to a favorable environment will be prioritized in the basis of the state environmental policy;
- developed ecological-legal culture, ecological-legal motivation of behavior, which is the basis of state decision-making and life of society as a whole.

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