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НАЦІОНАЛЬНІ СТРАТЕГІЇ РОЗВИТКУ З ПОЗИЦІЙ ЗАБЕЗПЕЧЕННЯ ЕКОЛОГІЧНИХ ПРАВ ТА ІНТЕРЕСІВ: КОМПАРАТИВІСТСЬКИЙ ПІДХІД

Анотація. *Стаття присвячена науково-теоретичному аналізу засад діяльності держави із формування національної політики в контексті забезпечення екологічних прав та інтересів людини, створення дієвих правових механізмів їх гарантування, реалізації та захисту, вирішення системних проблем в окресленій сфері. Мета дослідження полягає у всебічному, комплексному вивченні й аналізі норм законодавства з позицій екологізації внутрішньої і зовнішньої державної політики, національних стратегій розвитку. Методологічну основу статті становить комплекс загальнофілософських, загальнонаукових, спеціально-наукових і власне правових методів. Запропоновано екологізацію досліджувати як багатоаспектне явище. Державна екологічна політика розглядається як складова політики держави, в якій відображаються її стратегічні цілі й завдання, визначені на перспективу з урахуванням екологічних факторів. Доведено, що на законодавчому рівні мають бути передбачені чіткі механізми як правового забезпечення інтеграції екологічної політики в галузеві й секторальні, національні й регіональні стратегії, місцеві плани дій, так і взаємодії з інституціями громадянського суспільства, науковою спільнотою. Аргументовано, що сучасна державна екологічна політика й подальша систематизація екологічного законодавства мають проводитися, спираючись на положення еколого-правової доктрини, задля врахування сучасних підходів до врегулювання екологічних правовідносин, інтегрування екологічних вимог і приписів у документи державного планування, галузевого (секторального), регіонального й місцевого розвитку. Спираючись на власні висновки й узагальнення, надано пропозиції та рекомендації стосовно розробки єдиної концепції правової політики, зокрема, й еколого-правової як її складової, а також вдосконалення національної нормативної бази (а саме шляхом прийняття Концепції систематизації екологічного законодавства й модернізації сучасної стратегії державної екологічної політики)*

Ключові слова: *державна екологічна політика, еколого-правова політика, кліматичні права, еколого-правова доктрина, екологізація галузевих і регіональних політик*

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NATIONAL DEVELOPMENT STRATEGIES IN TERMS OF ENSURING ENVIRONMENTAL RIGHTS AND INTERESTS: COMPARATIVE APPROACH

Abstract. *The study is devoted to scientific and theoretical analysis of the principles of state activity in the development of national policy in the context of ensuring human's environmental rights and interests, the creation of effective legal mechanisms for their guarantee, exercise, and protection, solving systemic issues in this area. The purpose of the study is a comprehensive examination and analysis of legislation from the standpoint of greening national and foreign policy, national development strategies. The methodological basis of the study is a set of general philosophical, general scientific, special scientific, and legal methods. It is proposed to consider greening as a multifaceted phenomenon. In general, the state environmental policy is a component of state policy, which fixes its strategic goals and objectives, defined for the future, considering environmental factors. It is proved that at the legislative level there should be clear mechanisms for the legal support of integration of environmental policy into sectoral, national, and regional strategies, local action plans, and interaction with civil society institutions, the scientific community. It is argued that modern state environmental policy and further systematisation of environmental legislation should be based on the provisions of environmental law doctrine to consider modern approaches to environmental regulation, integration of environmental requirements and regulations to state planning, sectoral, regional, and local development. Based on conducted research and synthesis, proposals and recommendations for the development of a unified concept of legal policy, in particular, environmental legal policy as its component, also, for the improvement of national regulatory framework (namely by adopting the Concept of systematisation of environmental legislation and modernisation of the contemporary strategy of state environmental policy) are elaborated*

Keywords: *state environmental policy, environmental law policy, climate rights, environmental law doctrine, greening sectoral and regional policies*

INTRODUCTION

The desire of the authorities to develop a clear and balanced state environmental policy, extrapolating its key goals to industry strategies (primarily for their greening), indicates that those in power are aware of the existence of a global environmental crisis, its possible dangerous consequences, which is very important in modern conditions. Currently, the preservation of the environment, the protection of citizens' environmental rights, ensuring environmental security, etc. are integral components of the national and foreign policy of Ukraine and all states of the world. Moreover, the essence, content, scope, and degree of guaranteeing the environmental rights of citizens are constantly at the centre of attention when determining the strategic vectors of state development. However, their understanding (vision of the depth and urgency of the solution) and consolidation at the legislative level, unfortunately, did not guarantee their security and safety. The above repeatedly confirms that the exercise and protection of citizens' environmental rights were and remain relevant, especially in the context of establishing environmental law and order, greening national legislation, state policies and strategies for national development, developing citizens' environmental legal awareness, etc. Based on the above, the strategic vectors of national policy (not only environmental policy) should be adjusted to meet the challenges of modern time. Furthermore, it is necessary to dispose of long-term goals, optimise tasks, and clearly define the stages and measures of implementing the state environmental policy (including environmental law as its component), especially considering the consensus on updating the association agreement on systematisation of environmental legislation.

All the above becomes vital due to the fact that, firstly, there are considerable differences between the theory and practice of protecting environmental rights, secondly, these rights are formally recognised and enshrined in legislation, but in fact, they cannot be fully exercised and protected, and thirdly, there is a spread

of environmental and legal nihilism. This is an additional confirmation of the existence of an imbalance, the lack of an effective legal mechanism and an appropriate system of measures to create conditions for the unhindered exercise or restoration of violated environmental rights and satisfaction of interests, their safety, protection, and the development of environmental consciousness and culture.

In view of the above, it seems appropriate to provide general statistical data. Thus, as of 20.03.2020., the European Court of Human Rights (hereinafter referred to as the ECHR, the court) adopted 1.434 decisions stating that Ukraine violated the provisions of the convention for the protection of human rights and fundamental freedoms and its protocols [1]. Notably, in 2019, Ukraine was among the top 3 countries in terms of the number of appeals to the ECHR and the top 5 states in terms of the number of court decisions made on violations of at least one article of the European Convention for the protection of human rights and fundamental freedoms by the country during its entire existence. Admittedly, Ukraine's systematic failure to comply with court decisions causes serious concern [2].

No less considerable is the fact that according to the Rule of Law Index “The World Justice Project: Rule of Law Index 2020”, Ukraine ranks 72nd (index 0.51) [3]. In Ukraine, according to the index data, the key problems of ensuring the rule of law are systemic corruption, unfair legal proceedings, and weak law enforcement. According to the Environmental Performance Index in 2020. Ukraine ranked 60th out of 180. Ukraine has the worst indicators in the field of quality of life, conservation of biodiversity and ecosystems [4]. This situation is unfavourable since every human and civil right is valuable only if it receives proper security and protection, which should become the leading concept of national policy and its legal component. Based on this, it becomes clear that there is an urgent need for its improvement, modernisation, especially in the field of management and environmental protection, nature management, adaptation to climate change, and transition to the principles of a “green economy”.

Legal aspects of the development of state environmental policy in the field of ensuring the exercise and protection of environmental rights and interests are considered in the studies of Ukrainian specialists – representatives of environmental, land and agrarian law, theory of law, and other branches of knowledge, namely O.S. Hyliaka [5], N.I. Karpachova [6], E.M. Kopytsya [7; 8], T.V. Kurman [9], O.V. Petryshyn [10], Y.V. Shchokin [11], O.V. Donets [12] et al. Notably, the authors of this study also repeatedly addressed the outlined issue, suggested possible ways to solve it, and expressed their own thoughts on this issue. Despite the presence of a considerable number of studies, unfortunately, no compromise has been reached so far, there is no unity of views of researchers, as a result, the mechanism for protecting environmental rights and interests at the legislative level remains imperfect, which complicates law enforcement activities.

Without detracting from the importance and scientific value of the publications of the above-mentioned authors, it is worth noting that in modern conditions, this problem requires further comprehensive study and cognition in the context of a systematic analysis of national sectoral and regional development strategies to improve the system of protecting environmental rights and interests, promoting their security. However, given the limited volume of the publication, it is worth focusing on the fundamental strategies of national policy, the features of greening sectoral strategies for the protection of environmental rights and interests, the subjects of which, along with the state, are public organisations (primarily environmental organisations), local self-government bodies, political parties, etc. (that is, there is a polysubjectivity).

1. MATERIALS AND METHODS

The methodological basis of the research consists of general scientific and special methods of cognition of legal phenomena: historical, dialectical, Aristotelian, system-structural, theoretical-predictive, historical-legal, comparative-legal, comparativist, formal-legal, interpretation of legal provisions etc.

Thus, the dialectical method allowed comprehensively considering and substantiating the natural process of greening national development strategies, creating environmental policy from the standpoint of ecological and legal doctrine and science, considering their dynamics, constant updating, and advancement, and other social factors. The historical method was useful in studying the genesis of state environmental policy strategies in the context of protecting environmental rights, in analysing problems, trends, and prospects for further systematisation of environmental legislation. The use of this method allowed proving that greening is considered, firstly, as a historically determined process, which facilitates achieving a safe state of the environment for human life and health, in particular, by introducing strategic narratives, secondly, as a component of the development of a modern legal space and law and order in the context of European integration.

The use of the system-structural method contributed to determining the place of environmental policy in the architectonics of the national policy system and the legal system; structural-functional – to studying the institutional foundations for ensuring national environmental policy, especially from the standpoint

of protecting environmental and climate rights. The theoretical and predictive method allowed choosing ways and areas for further improvement of the provisions of the national ecological and legal policy and environmental legislation. The comparative legal and comparative methods considered the legal regulation of environmental relations inherent in the legal systems of individual foreign states and investigated the mechanism for protecting environmental and climate rights and interests in the context of state environmental policy. Upon the formal-legal method, the content of individual prescriptions of international documents, the national environmental regulatory framework are covered, judicial practice is analysed, which allowed formulating the author's conclusions and proposals. Considering the fact that it is necessary to examine the established practice of EU countries and international environmental organisations, according to which every five to six years, based on the results of the analysis of the effectiveness of introduction, the strategic goals of environmental policies are reviewed (adjusted), the authors also applied certain methods of logic.

The features and chronology of the development of legislation, based on the prescriptions of which the foundations of the state's environmental policy are established in the context of ensuring environmental rights and interests, are clarified using the historical-legal method. Upon using the normative-analytical method, the interpretation of normative legal regulations and scientific views of specialists was conducted, which became the basis for the development of the conceptual and categorical research apparatus. The use of the Aristotelian (dogmatic) method contributed to the disclosure and improvement of many concepts, allowed defining such legal constructions as “state environmental policy”, “greening of national development strategies”, etc., identifying their inherent features, and provided a complete review of the theoretical and methodological foundations for the development of state environmental policy. The contextualisation allowed substantiating the position that the content and measures for greening national policy depend on historical, social, political, and ideological factors. The mental modelling was useful in designing and modernising legal provisions proposed for making changes to the current environmental legislation, statistical – in proving the negative impact of conflict, inconsistency of environmental legislation provisions on the mechanism of legal regulation of environmental relations in the field of national policy. These methods were used in a relationship, which ensured the completeness of the research and the validity of the formulated conclusions and proposals, allowed proving the need to develop a concept for systematisation of environmental legislation, without which it is impossible to clearly define the legal mechanisms for implementing state environmental policy, while all efforts will seem another attempt to branch out environmental legislation, which is already overloaded with legal regulations. Moreover, the issue of developing a unified concept of legal policy and its component of environmental and legal policy also remains urgent.

2. RESULTS AND DISCUSSION

It is well known that the purpose of any policy is to solve acute and urgent problems. Moreover, this is recognised as the most important and difficult matter in their development. Thus, regarding the development of sectoral development policies, specialists note that social needs are poorly structured, and they are also “not clearly delineated: it is unknown where one problem begins and another ends. They partially overlap, intersect, and collide with each other” [13, p. 89]. As a result, this hinders horizontal coordination in determining the areas and vectors of the relevant policy.

Furthermore, despite the urgency of this problem, since Ukraine gained independence, unfortunately, it has not been possible to find optimal ways to overcome it, although certain positive steps have been taken in this area. Thus, at the legislative level, *four* special legal regulations (*two* of which, based on the name, are strategies, although in content it is advisable to discuss three strategies for the development of state environmental policy), which establish strategic goals and objectives, conceptual foundations of state environmental policy were adopted, namely: the resolution of the Verkhovna Rada of Ukraine “On the Main Directions of the State Policy of Ukraine in the Field of Environmental Protection, Use of Natural Resources and Ensuring Environmental Safety” (1998) [14] (*first*), laws of Ukraine “On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2020” (2010) [15] (*second*), “On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030” (2019) [16] (*third*), the decree of the Cabinet of Ministers of Ukraine “The Concept of the national ecological policy of Ukraine for the period till 2020”, dated 17.10.2007, No. 880-R [17] (which chronologically preceded the Law of Ukraine of 21.12.2010 No. 2818-VI) (*fourth*). Evidently, these documents mostly use the term “state environmental policy”. Notably, the policy is not a source of law, but it has a legal form. Considering this, it is not necessary to identify such legal categories as “national policy” and “legal policy” in the field of ecology, since the former is not always legal, and the latter, in turn, necessarily has its own legal mechanisms for ensuring.

It is also impossible to ignore the fact that before the above-mentioned regulations in the development and implementation of state environmental policy, the regulatory framework was the Law of Ukraine “On Environmental Protection”, Section VII. “Environmental safety” of the Declaration on state sovereignty of Ukraine (1990), the resolution of the Supreme Soviet of the Ukrainian SSR “On Declaration of Independence of Ukraine” (1991) and, admittedly, the Constitution of Ukraine (1996), etc. Currently, the marker of changes in the vectors of state environmental policy strategies is precisely the goals and objectives of these regulations, among them: “raising the level of public environmental awareness” (Strategy 2020) and “developing environmental values and principles of sustainable consumption and production in society” (Strategy 2030). Such conclusion was drawn based on the comparative analysis of the provisions of two documents – the laws of Ukraine “On the basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2020” (2010) and “On the basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2030” (2019). In fact, the latter (regarding its goal) is quite controversial, although attractive. It is advisable to recognise it as progressive, but one that requires considerable improvement. Given this, the issue of monitoring the effectiveness and ability to achieve the goals, compliance with their achievement for timely adjustment, is now becoming particularly relevant.

Thus, when developing national development strategies, it is necessary to first focus on finding new approaches and rethinking the place in them of vital high social values, such as state and territorial sovereignty, protection of human rights, and the Rule of Law [7, p. 169; 13; 18], which have been mentioned in the study. This is also of particular importance due to the fact that reducing environmental risks and minimising their impact on ecosystems, socio-economic development, and public health; the establishment of environmental values and principles of sustainable consumption in society in the new strategy are proclaimed the strategic principles of state environmental policy. Notably, the problematic aspects of implementing the ecosystem approach as an element of the right to a safe environment for life and health were studied by Y.P. Suietnov [19].

Regarding the issue of greening national sectoral development strategies and ensuring the protection of environmental rights and interests of subjects, it seems appropriate to recall that a large number of strategies, concepts, doctrines, etc. have been developed and adopted in Ukraine over the past decades. This is what gives grounds to discuss a frenzied legislative boom, given that the tendency to “fetishise” laws has fully manifested itself in this area, and legal mechanisms are being replaced by law to a large extent to achieve certain political, but actually groundless, socially unmotivated, and often even purely private goals. Nevertheless, the study and analysis of their content allow asserting that now greening is considered as a area of national policy, its fundamental principle, and a method.

Thus, the radical reform of the system of environmental management of protection and use of natural resources and complexes declared within the framework of greening will contribute to the achievement of the SDG (namely, goal 16 to ensure access to justice for all and build effective, accountable, and inclusive institutions), guarantee citizens the constitutional right to a safe environment for life and health, and implement European standards, including access to justice on environmental issues. In fact, all this is reflected in the decree of the president of Ukraine “On the Goals of Sustainable Development of Ukraine for the period up to 2030” [20] of 30.09.2019, No. 722/2019, in the National Economic Strategy for the period up to 2030 [2], which proclaimed the interaction of society on the principles of environmental friendliness and gender equality for the dissemination and protection of generally recognised human values, and in the three-year strategy for the development of the justice system and constitutional court proceedings, approved by the decree of the president of Ukraine from 11.06.2021 No. 231/2021 [21], the purpose of which is to improve the activities of justice institutions, modernise the system for protecting the rights and interests of citizens, including environmental ones.

Furthermore, there are recently put into effect strategies (it refers to such as the development of the justice system and constitutional court, foreign policy activities, military security, in the field of human rights, national youth, national economic, digital transformation of the social sphere, national security of Ukraine, regional development, biological security and biological protection, the development of exports of agricultural products, food and processing industry, the development of innovation, assistance in attracting private investment in agriculture, irrigation and drainage in Ukraine for the period up to 2030, etc). In addition, many strategies and concepts of environmental orientation have been adopted (environmental safety and adaptation to climate change for the period up to 2030 (2021), implementation of national policy in the field of industrial pollution (2019), on combating land degradation and desertification (2014), implementation of national policy in the field of climate change for the period up to 2030 (2016), etc.), and the national target social programme “Drinking Water of Ukraine” for 2022-2026 (2021), national target technological space programme of Ukraine for 2021-2025 (2021), etc., which determine the vectors of the state's movement towards greening.

Continuing to consider the issue, the resolution of the Verkhovna Rada of Ukraine “On the Principles of State Policy of Ukraine in the Field of Human Rights” of 17.06.1999, No. 757-XIV [22], which, based on the provisions of the Constitution, the Universal Declaration of Human Rights (1948), the convention for the protection of human rights and fundamental freedoms (1950) and its protocols, ratified by Ukraine, for the first time enshrined the principles and main areas of national policy in the field of human rights. It is important that the resolution reflects that Ukraine seeks to ensure that human rights and freedoms, their guarantees determine the content and area of the state activity. Notably, in the National Strategy in the field of human rights, approved by the Decree of the President of Ukraine of 25.08.2015 № 501/2015 (Decree expired based on the Presidential Decree of 24.03.2021 № 119/2021), and in the Action Plan on the implementation of the National Strategy in the field of human rights for the period up to 2020 [23], approved by the order of the Cabinet of Ministers of Ukraine dated 23.11.2015 No. 1393-r. (which expired on December 31, 2020), environmental rights, unfortunately, have not been singled out as an independent category (unlike the current Strategy). Currently, there is a new national strategy in the field of human rights [24], which was developed to solve and respond in a timely manner to systemic problems in this area in the context of modern challenges facing society [25], including, as noted earlier, the climate crisis, the impoverishment of biological diversity. Based on this, it seems quite logical and reasonable that the 15th strategic area of this strategy is to ensure environmental rights. In addition, the separation of this area indicates that the legislator considered the requirements of Articles 16 and 50 of the Constitution of Ukraine and articles 9 and 10 of the Law of Ukraine “On Environmental Protection”. Moreover, according to the strategy, the state plans to make every effort to solve (or rather eliminate) the following main problems: a) anthropogenic impact on the environment that threatens human health; b) low level of control over compliance with the legislation on environmental protection; c) ignorance of the population about environmental rights, mechanisms for their exercise and protection. Considering the globality and the importance of urgently correcting the situation, it is relevant to introduce a new environmental protection area of national policy, defining it at the national level as a priority in the field of guaranteeing and respecting human rights. However, the tasks that will contribute to the achievement of the purposes, unfortunately, require to be considerably improved, because they are written in a declarative, non-systematical manner and do not cover all existing levers of influence on the creation of an effective mechanism for the exercise, protection, legal protection of environmental rights, etc. Moreover, this also affects the expected results and key indicators.

Despite the existence of certain inconsistencies and shortcomings in fixing key goals and objectives, expected results and key indicators, their consolidation in the national human rights strategy should still be considered as a positive step in the development of the environmental rights system. In particular, from the standpoint of their official recognition (as an independent type/group) and their consideration as a strategic area of national policy, the desire to guarantee and hope for the possibility to protect them effectively. Otherwise, there is no point in waiting for the best because violations of environmental rights can cause consequences for the life and health of modern and future generations that are diverse in scale and prevalence, harm to the environment. An example of this is the Chernobyl disaster, which in the recent history of Ukraine for the first time raised the problem of environmental migration of affected citizens, due to which the development of a national mechanism for the legal regulation of internal forced environmental migration actually began.

It is worth giving another example. As is known, in the occupied territories of Crimea and eastern Ukraine there is a crisis environmental situation, since almost all components of the natural resource potential of Ukraine have been damaged. Many national and international institutions and organisations recognise that the armed conflict, which is still ongoing, has caused an environmental catastrophe, which is manifested in aggravation of the water crisis, the destruction of unique natural landscapes, recreational potential, etc. Under the influence of these negative phenomena, previously unknown categories are developed, namely the rights of environmental and climate refugees. It is worth emphasising that forced migration of the population is now a common problem for many countries (although the reasons may vary). Notably, the term “environmental refugees” was introduced into public discourse back in 1985 by a UNEP employee, El Hinnaoui, who suggested that this term should be understood as persons who are forced to temporarily or permanently leave their place of residence due to considerable environmental violations (natural or human-caused) that endanger their existence and seriously affect their quality of life. Through the use of this term and its expansion, “climate refugees”, “climate migrants”, “temperature refugees”, “environmental migrants” etc. have emerged, which, although used depending on the context, are inherently identical and characterise an important trend in the movement of the world's population at the beginning of the third millennium.

It is noteworthy that at least during the discussion of the draft Presidential Decree already mentioned above “On the national strategy in the field of human rights”, the Directorate of strategic planning and

European Integration of the Ministry of Justice of Ukraine held a meeting via videoconference on 19.05.2020, with the participation of representatives of the Ministry of Environmental Protection and Natural Resources of Ukraine, public and scientific environmental community to consider the issue of including environmental/climate rights of refugees in it. Special attention should also be paid to the fact that emphasis (considering new challenges) was placed on supplementing the area of “Ensuring the rights of refugees and persons in need of additional protection, including foreigners and stateless persons who are legally in Ukraine” with the rights of climate refugees, and the area “Protecting the rights of internally displaced persons” with the rights of internal climate refugees. Despite this, this issue is still open, because so far, the proposals submitted and discussed have not been legislatively consolidated in the current National Human Rights Strategy.

This suggests that climate rights should be considered as an institution (and not only in the context of the rights of migrants/refugees), which is at the stage of development. It is worth explaining the given position. First, the rights and regulatory framework for their provision are currently at the stage of development (it refers to the fact that legislation is being developed mainly in the field of adaptation to climate change and compliance with environmental safety requirements, prevention of environmental risks), secondly, it (the institute) is in close connection with the institute of environmental rights, moreover, climate rights correlate with environmental rights, which constitute a comprehensive intersectoral institute of environmental law and legislation. Based on this, the climate rights of not only a person/citizen but also the people/humanity can be discussed, which means that it should also be considered as a complex intersectoral institute in the future. Furthermore, as already mentioned above, these rights, and most importantly, their provision, are very important for all of humanity, especially from the standpoint of responsibility to future generations. The above is quite consistent with the sustainable development goals and is one of the fundamental concepts of the present time.

For the completeness of consideration of the issue of environmental/climate refugees, it should be noted that it has repeatedly been the object of research and discussed at scientific and practical conferences. It is impossible to ignore the fact that when analysing factors that potentially affect the development of international migration processes, in legal science, along with the reference to military-political instability (which is indirectly covered), population poverty, an increase in the unemployment rate in the world, etc., environmental problems and climate disasters are highlighted [26, p. 183]. Moreover, climatic and environmental conditions, as a rule, are attributed to internal factors according to the model of attraction/repulsion factors (E. Li) [27]. Given this, ecological migration in modern conditions is separated by many researchers into an independent group. In addition, researchers also analysed the impact of global environmental problems and environmental risks on “sustainable economic development” [28; 29], the state of introduction of its model in accordance with the Kyoto Protocol, and the prospects for introducing the Paris Agreement, which replaced it. Moreover, some aspects of ecological migration are covered in studies, monographs, and dissertation research conducted recently by the following authors: K.V. Shymanska [26], N.P. Pavlov-Samoil [30], M.M. Sirant [31], V.I. Olefir [32] et al.

It is worth returning to the essence and interpretation of the “environmental migrant”, mentioned above. Firstly, it was used by the International Organisation for Migration, which proposed the following definition: “environmental emigrants are persons who, due to sudden or gradual changes in the environment that negatively affect their living and health conditions, are forced to leave their homes or plan such actions and temporarily or permanently seek shelter within their country or abroad. All persons who migrate for environmental reasons are protected by international human rights law” [33]. In fact, this means that all national development strategies, namely economic, environmental, security, migration etc, environmental policy, modern national policy in general, should be focused on the introduction of a system to protect the population from the potential consequences of environmental disasters to reduce the risks of factors that strengthen migration processes, etc.

Regarding this issue, it is crucial focus on the Inter-American Court of Human Rights, namely, complaints of individuals, groups of individuals, and organisations about violations of their rights guaranteed by the American Declaration of the Rights and Duties of Man (1948), the American Convention on Human Rights, and other Inter-American human rights treaties submitted to the Inter-American Commission on Human Rights. In addition, when creating an effective system for the protection of environmental and climate rights, an integral role was played by cases that were considered by the Commission in the context of the connection of human rights violations with climate change (the cases of *Mayagna (Sumo) Awas Tingni v. Nicaragua* [34], *Athabascques v. Canada* [35], *Inuit v. The United States* [36]).

There is also a practice of filing lawsuits in the EU countries. Thus, for many of them, a kind of signal should be the fact that Germany, France, Ukraine, and 29 other states will have to provide explanations to the European Court of Human Rights (ECHR) related to the claim of a group of young Portuguese people for

climate protection. It refers to the fact that on 30.11.2020, the ECHR accepted the specified climate claim for consideration. Judges in Strasbourg will consider the complaint of six young Portuguese people aged 8 to 21 on a priority basis. As it became known, the lawsuit, among other things, refers to the emissions of greenhouse gases by the respondent states that affect global climate change. The plaintiffs claim that the devastating forest fires in Portugal in 2019 were partly caused by the insufficient implementation of the Paris climate agreement in Europe. According to the plaintiffs, the governments of the accused countries were inactive (that is, they did not take appropriate and necessary measures) in the fight against climate change, in particular, severe droughts, because of which the agriculture of this state faced the problem of water shortage [37]. Legal support for the plaintiffs was provided by the British non-governmental organisation Legal Action Network. The claim of the Dutch Foundation Urgenda [38], which forced the government to reduce the number of coal-fired power plants, should be recognised as most successful and considerable. Thus, based on the above, it seems necessary to emphasise that according to the Sabin Centre for Climate Change Law and Arnold & Porter Kaye Scholer LLP, 1,444 such cases were registered in accordance with the climate change legislation as of January 2020 [39].

It is worth focusing on one more positive point. Thus, the German Constitutional Court granted the claim of eco-activists (including Fridays for Future, founded by Greta Thunberg), which demanded that the government tighten the requirements of the climate protection law adopted in 2019. As is known, on April 9, 2021, The German Constitutional Court ruled that the mentioned law is partially unconstitutional, in particular, it postpones the period of reduction of harmful emissions until 2030 without explanation and does not specify exactly how the state plans to achieve this. According to the court's decision, the German government was given time (more precisely, until the end of next year) to finalise the law and tighten its requirements [40]. Notably, the claim states that their “*fundamental right to a civilised future*” was violated due to the fact that the law provides for an insufficient number of measures to reduce greenhouse gas emissions and counteract climate change. Hopefully, similar actions and court decisions will appear in Ukraine, considering the fact that Articles 3, 16, and 50 of the Constitution are provisions of direct action.

This conclusion is made in view of the fact that today Ukraine has adopted many laws and strategies that provide for the implementation of projects to reduce carbon emissions, such as: Energy strategy for the period up to 2035, Strategy of the state environmental policy of Ukraine for the period up to 2030, Low-carbon development strategy, Action plan on energy efficiency and renewable energy sources, National plan to reduce emissions of pollutants from large combustion plants, Law on the basics of monitoring, reporting and verification of greenhouse gas emissions, etc. It is noteworthy that all these documents stipulate that Ukraine should start many important projects in the field of countering climate change. However, in practice, everything is not the same as on paper, the reason for which is the imperfection of tools for implementing strategies, and as a result, there is no real reduction in greenhouse gas emissions.

To summarise, certain steps have been taken in Ukraine to eliminate climate threats and ensure climate rights. Namely, on the one hand, the ratification by Ukraine of the Paris Agreement, the UN Framework Convention on Climate Change, the Association Agreement between, and the European Union, on the other hand, the European Atomic Energy Community and its member states, the adoption of the concept of implementing national policy in the field of climate change for the period up to 2030 [41], including the action plan for it (2017), the adoption of the long-awaited strategy for environmental security and climate adaptation (2021), etc., which lay the foundation for the development of a system for protecting climate rights, although mostly for the future. However, despite all these attempts to reintroduce an extensive regulatory framework, Ukraine continues to lose its position in the Climate Change Performance Index 2021 policy rating, currently being on the 20th place [42], and the reasons for this lie in the fact that, as already mentioned, at present, a comprehensive coordinated policy on adaptation to climate change in various sectors of the economy and public life has not been developed, while industry strategies, policies, and plans are not coordinated with climate planning documents, there are no plans for adaptation to climate change.

CONCLUSIONS

In view of the above considerations, the following conclusions and generalisations about the development of state environmental policy through the prism of ensuring environmental rights and interests can be proposed.

First, the extrapolation of the fundamental goals of state environmental policy into national development strategies, sectoral policies (their greening) should be scientifically based and have a reasonable methodological basis.

Secondly, strategic planning of the state environmental policy should become balanced, methodologically reasoned, with an outline of problems (especially those that may arise in the future) and ways to solve them, a long-term vision; it should set tasks and evaluate obstacles that hinder the implementation of development strategies, include the desire to coordinate development vectors and make

appropriate decisions, proper legal support. A special place should be given to monitoring the performance and evaluation of the results of the activities.

Third, there is a certain logic in the fact that in modern conditions in many strategies, concepts, and doctrines of the development of Ukraine, greening is considered as a multidimensional phenomenon, since it acts as: (1) the leading vector of national policy development strategies; (2) the fundamental principle and (3) the method of national policy; (4) a component of the development of a modern legal space in the context of European integration; (5) an element of modern law and order; (6) a component of modern legal awareness; (7) the constitutional obligation of the state; (8) a system of appropriate measures aimed at preserving and restoring the constancy of ecosystems, ensuring environmental safety requirements in the process of economic activity and production, security, and protection of environmental rights, interests, etc.; (9) a historically determined process, which allows achieving a safe state of the environment for human life and health, in particular, by introducing strategic narratives, namely, an ecosystem approach to all areas of socio-economic development of Ukraine and an environmentally balanced nature management, restoration and preservation of natural ecosystems, etc. Based on this, the object of further research, admittedly, should be the features of not only the greening of national policy but also the national legal system and legislation, legal relations.

Fourth, the disadvantage of strategies, principles, concepts, doctrines developed in Ukraine is the fact that they do not correlate with each other, do not have a clear definition of priority issues directly related to climate change, ensuring environmental safety of the population, protecting the environment, environmental rights and interests. In general, the state environmental policy is a component of the national policy, which fixes its strategic goals and objectives (that is, their legislative consolidation), defined for the future, considering the constancy of ecosystems, biological and landscape diversity, the level of public health, anthropogenic impact on the environment, environmental risks, etc. through the development and use of certain mechanisms, a set of means and measures, including legal ones.

RECOMMENDATIONS

Based on the results of the study, it is necessary to consider the established practice of EU countries and international environmental organisations, according to which every five to six years, based on the results of the analysis of the effectiveness of introduction, the strategic goals of environmental policies are reviewed (adjusted). In this regard, it is appropriate to review the modern strategy of state environmental policy, which primarily concerns changing the name (from the standpoint of the semantic approach to “fundamentals” and “strategies”), lexical and etymological interpretation of the term “environmental policy”, the definition of its content component and internal differentiation, a clear definition at the legislative level of the procedure for developing, updating state environmental policy, and especially the coordination of strategic development vectors and corresponding tasks. In addition, legal liability for its improper performance should be indicated.

Furthermore, at the legislative level there should be clear mechanisms for legal support for the integration of environmental policy into sectoral, national, and regional strategies, local action plans; interaction with civil society institutions, the scientific community should be real, and not exist (prescribed) on paper, the expert activity of lawyers should be considered, especially when developing strategic vectors of state environmental policy. It is also necessary to develop a concept of systematisation of environmental legislation, without which it is impossible to clearly outline the legal mechanisms for implementing state environmental policy, otherwise all efforts will seem like an attempt to branch out environmental legislation, which is already overloaded with legal regulations. Furthermore, the issue of developing a unified concept of legal policy also remains urgent.

It is also necessary to identify the form of systematisation of environmental legislation. Recently, many approaches to it have been proposed and scientifically substantiated, such as: adoption of the Ecological Code of Ukraine, Fundamentals of Environmental Legislation of Ukraine, Code of Environmental Laws, Code of Laws of Ukraine on Safe Environment, etc. Considering the above, it is advisable to combine the efforts of the environmental community to coordinate and choose the form of its implementation and determine the principles of environmental and legal policy. Therewith, environmental rights, interests, and obligations should be considered as a system-developing factor, a value guide for the development of ecological and legal science, doctrine, policy, and legislation (especially during its systematisation).

When starting to codify environmental legislation, it is worth remembering that it is innovative, since it has not yet acquired a certainty and objective readiness in its content, although its implementation is already socially determined. The preparation of the codified act will be an attempt to solve a number of problems of legislative regulation of environmental relations, the rejection of fragmentary modernisation of environmental legislation and the transition to its systematic updating. The outlined points should become a strategic vector for modernising the tasks of modern environmental policy.

Therewith, an integrated approach to the development of state environmental policy should be maintained, based on systematic, continuous greening of national development strategies, integration of state environmental policy into others. However, it should be remembered that the main threat is the possibility of “blurring” it in the problems of other sectoral policies, therefore, the environmental component of national policy, development strategies should not remain only a declaration, a beautiful and bright slogan with a European connotation, but should perform its own functions, such as ideological, doctrinal, law-making, law-enforcing, right-exercising, etc., which is a crucial aspect. Environmental rights and interests should be ensured in the legal aspect and in the political, economic, social, and ideological aspects. Only under such conditions will their proper provision in national development strategies become an effective tool not only for their exercise but also for their protection. Thus, ensuring the security and protection of environmental rights of modern and future generations depends on how effective and balanced the modern state environmental policy will be and how perfect will the national legislation be.

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