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PROBLEM ISSUES REGARDING LEGAL LIABILITY FOR ENVIRONMENTAL OFFENSES IN UKRAINE

Purpose. To identify controversial and problematic provisions of the current legislation of Ukraine in the sphere of environmental protection which form the plane of legal responsibility for violations of environmental standards and norms.

Methodology. The following research methods were used: the monographic method of scientific research, synthesis and analysis, the economic-statistical method, the method of detailing and concretizing the obtained results, the method of scientific-abstract systematization of results, and the graphic method of visualizing the results of scientific research.

Findings. In Ukraine, a regulatory framework has been established that regulates the system of responsibility for environmental violations. Its main forms include disciplinary, administrative, civil, and criminal responsibility. It has been found that the modern environmental legislation is characterized by certain shortcomings in the identification and prosecution of persons guilty of violating the norms of existing laws. This is confirmed by the analysis of the amount of damage and losses caused to the environment, the dimensions of which are increasing annually in Ukraine. Simultaneously with the increase in the amount of damage caused, the degree of non-identification of persons who are responsible for causing damage to natural resources and the environment is increasing. The analysis of regional differences in environmental responsibility also demonstrates significant differences between the administrative regions of Ukraine in terms of the discipline of environmental responsibility.

Originality. Based on the results of the conducted research, the main problematic aspects regarding legal responsibility for violations of environmental legislation in Ukraine were identified and analyzed. A need for a fundamental change in the concept of environmental responsibility for economic entities within the framework of sustainable development strategy has been identified. A gradual change in the basic principles and approaches to responsibility for violations of environmental legislation in the direction of predominance of preventive functions of environmental protection over punitive ones was proposed. Tools for possible improvement of environmental legislation were also proposed, in particular, fiscal preferences for environmentally tolerant industries, application of trade quotas for industrial enterprises that pollute the environment, harmonization of sanctions and environmental tax rates in accordance with the legislation of European countries.

Practical value. The research results and proposed measures for improving the current procedures and mechanisms of legal liability for environmental offenses can be used by specialists of legal departments and services at the level of micro-management and macro-management to solve the tasks of further improvement of the current legal framework and increase the level of social responsibility of business and officials.

Keywords: *environmental responsibility, natural resources, environmental protection, environmental legislation*

Introduction. Achieving the goals of sustainable development and improving the level of well-being of current and future generations of the planet's population is determined by the state and resources of the natural environment. The ecosystem plays a leading role in ensuring the economic activity of mankind, forms resource and production potential, and determines the possibilities of providing economic and non-economic benefits for mankind. In recent years, attention to the solution of environmental protection tasks has increased significantly both on the part of state management bodies, and on the part of business and society as a whole. The understanding of the importance and priority of the environment for future life is considered as the basis for the formation of new concepts of consumer behavior, business behavior and economic management [1]. Today, ecological aspects dominate the strategic plans and tasks of the development of companies, countries, regions, and the world as a whole. Environmental protection and protection of natural resources are becoming the most important elements of state management policy and corporate social responsibility of business. At the same time, the solution to the tasks of protecting the natural environment often appears in an imbalance with the economic interests of business,

which requires the creation of an effective legal basis for the preservation of the environment, the substantiation of legal norms and standards of environmental law and, accordingly, the forms and instruments of responsibility for their violation.

Literature review. In the countries of the European Union, the issue of ensuring environmental protection is extremely relevant and determines the strategic directions of development of the European community as a whole and each of its participants. The legal framework for the protection of the natural environment is formed at the supranational level and is binding for all EU members. However, as it is noted by Bokov Yu, et al., at the moment, EU institutions have not managed to achieve complete unification in the field of environmental legislation and ensure effective interaction within all national legal systems. The predominant tools in the system of environmental law and liability for violations of its norms are administrative norms, which are given a significant advantage over the criminal form [2].

As it is noted by Hunjet, et al., the norms and standards of the environmental legislation of European countries use the tools of imposing financial fines, sanctions for compensation of environmental damage and confiscation of income that was obtained as a result of violation of environmental legislation [3]. In many countries, liability is provided for violations of current norms and standards of environmental legislation on

the part of officials who are related to environmental crimes as a result of obtaining illegal economic (or other types of) benefits. In particular, persons who grant licenses for the use of natural resources, ensure the implementation of state control measures in compliance with current environmental legislation, conduct monitoring, etc., may be held liable. Alam and Islam consider such measures to be quite effective and such that require mandatory disclosure [4]. A similar opinion is held by Wysocki, who considers the practice of publishing information about violations of legal environmental norms by businesses and officials through the creation of transparent national registers an effective tool for environmental protection [5].

Chowdhury, et al. according to research results found out that public penalties and disclosure of information about environmental violations by businesses contribute to increasing the degree of social and environmental responsibility of companies and lead to a reduction in environmental crimes and more complete compliance with current environmental legislation [6].

Habib and Bhuiyan, in the course of their analysis, found that monetary penalties imposed on EU companies for violating environmental legislation were ineffective. A higher level of effectiveness was shown by incentives for investing in environmental projects, practices for creating ecological supply chains, which allowed European companies to avoid environmental sanctions and increase the level of competitiveness of their own products. The results of the research of these scientists, which showed that companies whose management receives rewards related to compliance with environmental requirements, faced a greater amount of fines and sanctions [7] turned out to be quite debatable.

In recent years, scientists have been actively considering the issue of researching the environmental responsibility of companies within the concept of corporate social responsibility. Environmental programs and projects are some of the most common ways for a company to demonstrate compliance with current environmental legislation and to show voluntary initiative in solving environmental problems important to society. The number and cost of environmental programs that are actively supported by business are increasing annually. However, in some cases, even world-renowned companies sometimes refuse to pay environmental reparations or extend their payment terms. An example is the Shell company, which prolonged the payment of 45 billion dollars in New Zealand for oil production and the resulting deterioration of the environment for 10 years [8]. In such cases, sanctions for violation of environmental norms and rules are not effective enough.

Zelazna, et al. continued the study on the influence of corporate social responsibility policy on the environmental behavior of companies and found out that modern environmental law at the level of corporations (micro-law) should be based on a combination of ethics, legal rules and norms and the developed environmental policy of the company. According to scientists, under such conditions the economic activity of corporations will be as effective as possible in relation to the natural environment [9].

Using macro-legal analysis, Turner examines how different types of economic law (international investment law, trade law, corporate law) can collectively influence management decisions that lead to ecological neutrality and tolerance of economic activities of companies in relation to the environment. The results proved that the achievement of the goals and tasks of zero degradation of the natural environment can only be achieved thanks to a comprehensive strategy that requires a multi-level approach and the joint work of environmental lawyers. In order to achieve a cumulative effect, the need to implement an effective legal reform at all levels of economic management is long-felt [10, 11].

Ladychenko, et al. emphasize that the current environmental situation in Ukraine is quite complex and is deter-

mined by the presence of large-scale environmental crimes, which are not taken into account by official state statistics. The issues of environmental protection are extremely relevant and difficult for the national ecological environment in connection with widespread crimes in the field of the use of wildlife and forest resources. A significant problem for Ukraine is the illegal mining and destruction of land resources and the environment as a result of amber mining. Scientists note that the mechanism of legal environmental responsibility in Ukraine should be improved by supplementing it with such functions as stimulating the subjects of economic relations to comply with current legal norms; full compensation for the damage caused; implementation of tools for the prevention of new environmental crimes [12, 13].

Unsolved aspects of the problem. Despite constant changes and improvements in the environmental legislation of Ukraine, numerous cases of its violation by business entities indicate the need for further analysis and identification of problematic aspects of the current legislative norms and provisions that regulate responsibility for environmental offenses.

The purpose of the article. The purpose of the article is to identify controversial and problematic provisions of the current legislation of Ukraine in the field of environmental protection, which form the plane of legal responsibility for violations of environmental standards and norms. In accordance with the set goal, the following tasks were separated in the article: 1) research on the problematic and debatable foundations of the current environmental legislation of Ukraine; 2) analysis and assessment of the amount of damage caused to the natural environment as a result of environmental offenses.

Methods. The substantiation of the purpose of the scientific research determined the tasks and the method of their implementation. The first part of the study included a review of literary sources devoted to scientific issues of legislative regulation of liability for violations of environmental legislation in modern practice. In the second part of the article, a study on the current system of legal responsibility for environmental offenses in Ukraine was conducted. On the basis of the method of analysis of statistical and economic indicators, an assessment of the amount of damage and losses to the natural environment of Ukraine as a result of the violation of domestic environmental legislation was carried out. The methodical plane of the analysis consisted of a system of the following indicators: the amount of fines imposed, the efficiency ratio of environmental administration, the amount of damages, and the loss coverage coefficient. Data from the State Environmental Inspection of Ukraine, information from the Ministry of Environmental Protection and Natural Resources of Ukraine, and data from specialized agencies were used as sources for the analysis. The results of economic and statistical calculations became the basis for calculating the rating indicators of the administrative regions of Ukraine in terms of the effectiveness of environmental administration.

The materials for writing the article were primary data obtained on the basis of generalizations of domestic and foreign scientific literature on issues of regulatory support for ecological protection of the environment. The results of scientific developments of scientists, highlighted in specialized publications, which are included in well-known international scientometric bases, have become an important element of the research information base. When writing the article, a set of general scientific and specific methods of economic research was used, in particular: monographic method (when studying the peculiarities of building a system of legal responsibility for violations of environmental legislation in Ukraine), methods of synthesis and analysis (when assessing the amount of damage and losses caused to the environment), the method of detailing and concretization of the obtained results (when determining the level of efficiency of environmental administration), the method of scientific and abstract systematization of the results of scientific research (when determining the totality

of problematic aspects of the current environmental legislation of Ukraine). The set of these methods was supplemented by a graphic method of visualizing the results of scientific research.

Results. A review of literary sources devoted to the topic of the study showed that responsibility for violation of legislative regulations in the field of environmental protection in world practice is characterized, first of all, by a system of administrative fines and financial sanctions. Lawyers define liability for violations of current norms of environmental legislation as a set of legal norms and instruments that are applied to offenders for damage to the natural environment [14].

According to the Law of Ukraine “On Environmental Protection” [15], four main types of liability are provided for violations of the current legislation in the field of environmental and legal relations (Fig. 1).

As it is noted by Glukhova and Kravchenko, the key problems in the sphere of providing legal protection and implementation of the mechanism of bringing offenders to environmental responsibility in Ukraine are: 1) existing financial limitations in the field of monitoring compliance with current legislation and the implementation of state environmental programs; 2) imperfect mechanism of environmental tax administration; 3) low effectiveness of environmental protection measures; 4) imperfection of institutional procedures for monitoring environmental violations and the mechanism of imposing legal responsibility on guilty persons [16].

Sirant considers it necessary to supplement the content of the Law of Ukraine “On Amendments to Certain Legislative Assets of Ukraine Regarding the Protection of the Population from the Impact of Noise” with appropriate provisions on the assessment of such negative impact not only on people, but also on biological objects of the environment [17]. Komarnytskyi notes shortcomings in part of the administrative form of manifestation of Ukraine’s environmental responsibility, in particular, the formation of non-transparent reporting on the assessment of the environmental impact of economic activity by enterprises. The non-objectivity of such assessment and relevant data creates significant risks for the components of the ecosystem and should be the subject of further improvement of the Code of Ukraine “On Administrative Offenses” [18].

The normative and legal principles of protection of forests of Ukraine against irrational use, damage to forest resources and the spread of arbitrary felling are fundamentally important for the national economy and the system of environmental law. Since 2019, the current codes of Ukraine have provided for administrative and criminal liability, respectively, for illegal felling of forest plantations, their storage, transportation, and causing significant damage to the country’s forest resources.

Bakhnovska and Kovalchuk note that the provisions of the Criminal Code, which change slightly every year depending on the criteria for classifying the damage as “significant”, “large size”, “especially large size”, significantly narrow the possibilities of prosecuting violators of current legal norms [19]. The basis for determining the category of the size of the damages is the subsistence minimum for an able-bodied person, established as of January 1 of the reporting period. In 2023, according to the established socio-economic indicators (SMAP at the level of UAH 2684), the amount of significant damages caused by illegal deforestation is UAH 4026 thousand, large damages – UAH 6710 thousand, particularly large damages – UAH 9394 thousand hryvnias. According to scientists, the adopted Law “On Amendments to Certain Legislative Assets of Ukraine Regarding Provision of Ukrainian Forests” has not changed the situation fundamentally either and does not fully contribute to the effective protection of the country’s forest plantations. Scientists see a solution to this problematic issue in the creation of specialized supervisory councils, whose functions will be to determine the promotion of environmental protection in the field of forest resources of Ukraine [19].

In addition, according to the State Audit Service of Ukraine, threatening trends have been observed in recent years which are related to the current state of compliance with environmental legislation of Ukraine. Among the main ones, the following should be highlighted: 1) a decrease in the number of appeals from territorial state control bodies regarding the revocation of licenses and the termination of business activities of business entities that violate the current norms of environmental law (in particular, the situation with responsibility for the pollution of water resources is difficult); 2) irregularity of control procedures and inactivity of authorized persons in terms of bringing to justice those guilty of improper handling of waste and hazardous substances; 3) ineffective use of the functionality of institutional management and control over the state and protection of the environment; 4) outdated methods for calculating environmental damage; 5) the need to improve the provisions of the Code of Ukraine on administrative violations and the gradual harmonization of its provisions with European legal practice; 6) the imperfection of the systemic approach to environmental protection and control over compliance with the country’s environmental legislation [20].

The analysis of the main regulatory and legal assets, which regulate responsibility in the field of compliance with the current environmental legislation of Ukraine and the selection of appropriate forms of responsibility for its violation, made it possible to identify some of its problematic aspects:



Fig. 1. Types of legal responsibility for violations of environmental legislation in Ukraine

1) the absence of clearly regulated procedures for carrying out evaluation work by the commission for assessing the impact of damage caused to the environment, the limited range of tasks of this body and the need to improve procedural tools taking into account the principles of sustainable development;

2) the need to add legal provisions within the framework of criminal liability for persons guilty of extracting minerals in ways that are destructive to natural and biological resources;

3) the spectrum of economic issues with the use of subsoil not for the main purpose (development for mining) remains undefined. The disputed interpretation of key definitions in the Code of Ukraine “On Subsoil” (in particular, the definition of the category “subsoil”) creates a legal conflict for the definition and application of punishments for guilty persons for causing damage to subsoil and land resources in the event of their use in the course of the economic activities of industrial enterprises;

4) the clear focus of the Criminal Code of Ukraine on determining responsibility for environmental crimes that relate to a separate element of the environment (for example, the subsoil, elements of the marine environment, etc.) and do not take into account the systemic negative effect on the violation of the ecological balance of the territory as a whole;

5) predominance of the principle of responsibility (actual punishment) over the principle of prevention of possible negative actions and consequences (preventive protection) for the environment in the current environmental legislation of Ukraine;

6) the aspect of assessing the size of the damage that may occur in the future during the use of the natural environment by future generations remains debatable nowadays;

7) the issue of ensuring the transparency of monitoring procedures, the results of environmental inspections in compliance with current environmental legislation by the controlling authorities, and the effectiveness of executive procedures regarding the punishment of persons guilty of harming the environment remains problematic at the moment. Satisfying society’s requests for complete and reliable information regarding the implementation of the mechanism of environmental responsibility can become a tool for increasing the level of social responsibility of businesses and officials for the results of their activities.

Issues related to the value equivalent of responsibility, in particular, in terms of its administrative and civil forms, are quite debatable for domestic environmental legislation. Administrative responsibility for environmental crimes is realized mainly through the application of fines. As experience shows, the size of such fines often turns out to be much smaller than the expenses of enterprises for the purchase of modern equipment and technologies that are tolerant to the natural environment. This is one of the main reasons that encourage business entities to save costs for the purchase and use of treatment facilities, environmentally neutral equipment and the implementation of environmental protection measures. In the field of civil environmental liability, there is often a subjective approach to assessing the value of the damage caused, which does not contribute either to increasing the level of environmental responsibility of business entities and the implementation of radical ecological modernization of their economic activities. The existing approach to determining and setting the amount of fines should be adjusted taking into account the change in the ratio “benefit – costs for repayment of sanc-

tions” in the direction of increasing costs for violations of environmental legislation. One of the tools of the new approach can be the confiscation of assets of entities violating environmental norms, which makes it impossible for them to receive economic benefits in the future and can serve as a significant motive for compliance with environmental legislation.

The current legislation of Ukraine practically does not provide for the norms and tools for bringing to responsibility officials who, by virtue of their powers, have the right to issue licenses for conducting economic activities related to the use of natural resources and their production (mining, deforestation, etc.). If the consequences of the business activities of business entities are damage to the environment, it is advisable to carry out an inspection of the officials who granted the corresponding permit. It is also appropriate to analyze the background of business structures that have received permission to use or extract natural resources, and to determine the existence of facts of violations of environmental legislation in the past. In case of discovery of facts of ignoring past environmental violations of the company receiving the license, abuse of official powers, proof of beneficial interest of the official who granted the permit, certain forms of responsibility should be applied to such a person.

Deficiencies and certain problematic aspects of Ukrainian environmental legislation lead to the task of annual damage to the natural environment, the state of natural resource potential and corresponding losses. According to research data, the amount of damage caused to the country’s ecological environment has had a negative tendency to increase in recent years (Table) [21].

The results of the analysis show that the total amount of damage caused to the country’s ecological environment in 2022 amounted to UAH 1,558 million. Out of the total amount of damage caused to the environment, land resources suffered the greatest damage – about 44.5 % of the cost of the damage caused. The sphere of subsoil use is also characterized by the significant damage to natural resources – about 29.8 % of the total cost of damage, the sphere of waste management – 29.8 %. Water resources (2.7 % of the total cost of total damages), atmospheric air (0.6 %) and land of the water fund (14.7 %) suffer losses and damages to a lesser extent.

The mechanism of administration of procedures related to the prosecution of persons guilty of violating the current norms of the country’s environmental legislation is characterized by low performance indicators. About 61.6 % of the total amount of damage was caused by unidentified persons, which is why they were not compensated, and the persons responsible for violating environmental legislation were not brought to justice. The imperfect mechanism of identifying, assessing, and bringing guilty persons to justice at the current stage of the development of environmental and legal relations is one of the main problems of the protection of Ukraine’s natural resources.

Regionally, the Central District (Cherkasy, Poltava, Vinnytsia oblasts) has the highest level of effectiveness of environmental administration. This eco-territorial district of the country takes the first place in the rating table of the evaluation of the effectiveness of the work of the State Environmental Inspection of Ukraine with an absolute effectiveness coefficient of 1.69. The capital administrative-ecological region took the last place in the ranking (Fig. 2) [21].

Table

The amount of damage caused to the natural environment of Ukraine as a result of violation of environmental legislation

Indexes	2018	2019	2020	2021	2022	2022 to 2018
Amount of imposed fines, thousand hryvnias	6900.6	11148.4	8444.0	13276.6	3479.2	-3421.4
Efficiency coefficient of environmental administration, %	94.8	94.6	96.2	94.5	93.9	-0.9
Amount of damages, thousand hryvnias	1,039,055	2,081,842	2,158,741.3	4,068,785	1,558,576	+519,521
Loss coverage factor	18.4	4.3	5.7	3.3	17.6	-0.8

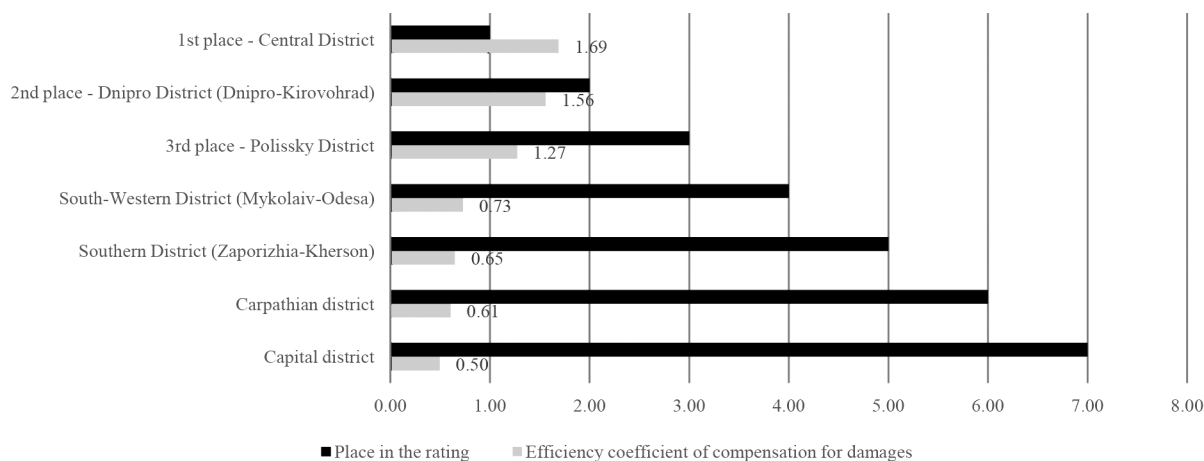


Fig. 2. Rating of administrative-ecological regions of Ukraine according to indicators of the effectiveness of environmental administration

The actual situation with the amount of damages that the natural resources and ecological environment of Ukraine suffer annually, and the relatively low level of the overall effectiveness of the state environmental administration system, indicate the existence of outdated approaches to ensuring ecological safety and protection and preservation of the environment in the country. In accordance with the adopted strategies, the EU countries are actively moving to new approaches and strategies for the protection of the natural environment, which are based not only on environmental tax rates and constantly growing norms of administrative and financial responsibility. The basis of the new concept in environmental protection is the goals of sustainable development, the organization of a system of preventive measures, updating the toolkit of environmental strategies of the EU as a whole and of each individual participating country. The content and forms of manifestation of environmental safety are formed taking into account the goals and strategies of inclusive sustainable development. Important directions in this context are the gradual transition from the concept of mandatory liability for violations of environmental legislation to the concept of preventive protection, reducing the level of potential risks and minimizing potential threats of damage to the environment. Sanctions, regulations, environmental tax rates remain effective tools of a new approach to ensuring environmental security for current and future generations. However, they serve only as tools for active response to violations and damage to the natural environment and are practically unable to perform the functions of motivation regarding a careful attitude to natural resources. The trend of decreasing environmental administration efficiency coefficients indicates the need to revise the set of traditional tools and forms of environmental protection and bring guilty parties to justice. Greater attention from the institutional mechanism of environmental control should be paid to risk management based on inclusive social development goals.

Tools such as a high level of awareness and understanding of the importance of environmental tasks on the part of society, a high level of general eco-culture of individuals and legal entities, and a high level of corporate social responsibility of business entities should acquire more and more importance. The system of state administrative norms in the field of environmental protection should objectively be supplemented by voluntary intra-corporate norms and standards of companies in the sphere of preservation and restoration of ecological resources.

Ensuring a high level of resistance of the national ecological system to potential risks and threats cannot be ensured without a significant amount of funding for measures aimed at future prevention and reduction of negative anthropogenic impact. In the opinion of the authors, it may be appropriate to change the standard approach, which is based on the appropriate forms and dimensions of liability for violations of envi-

ronmental legislation, to a target concept, whose main tools will be specific target indicators of improving the state of all components of the ecosystem and its state as a whole. At the same time, a change in the understanding and perception of the ecological environment, both on the part of business and on the part of the population, is of exceptional importance. The resource-based consumer approach should be adjusted in the direction of perceiving the environment as the most important component of ensuring well-being, a high standard of living, safety and health of the nation. For this purpose, effective incentives for the prevention of pollution, damage and reduction of natural resources, protection and preservation of the environment should appear in domestic legislation, which will be perceived as norms of everyday life for both the country's population and business. Such environmental drivers may be based on socio-economic or market incentives for environmental protection (for example, incentives and bonuses for minimizing harmful waste and littering of territories and natural resources). The initiative to develop such incentives should belong to state institutional bodies and needs appropriate financial support. Thus, fiscal preferences for companies that implement innovative technologies that are neutral for the environment can be effective. Various forms of financial and credit support (subsidies, subventions, preferential loans) can become effective for the development of innovations, transition to a circular production model, reduction of carbon dioxide emissions, etc. In our opinion, restrictions (for example, in the form of relevant quotas) on trade volumes for industrial enterprises whose production process is associated with pollution of the natural environment (discharges into water, significant volumes of CO₂ emissions, subsoil development) may appear promising. The development and introduction of a mechanism for the distribution of such quotas into domestic environmental legislation will contribute to reducing the scale of pollution. In addition, it is advisable to consider the market principles of distribution (purchase) of such incentives (quotas) among enterprises. Proceeds can be directed to measures related to the protection and restoration of the country's natural resources.

Environmental tax is an effective tool for combating environmental pollution throughout the world. Studies show that the environmental tax is almost the only one in Ukraine, the rates of which have increased significantly in recent years. In 2022, additions were made to the environmental tax reporting. At the same time, despite the constant dynamics of increasing environmental tax rates in Ukraine, they remain significantly lower than in EU countries. This contributes to the fact that the environmental tax performs its main function – fiscal, but does not perform a stimulating function, which is designed to ensure the effect of motives to reduce the level of environmental hazards at the objects of taxation.

The issue of clearly defining the nature and forms of environmental responsibility is becoming an urgent issue for modern environmental legislation. In Ukraine, the forms of environmental liability are disciplinary, administrative, criminal, and civil ones. The content of environmental responsibility in domestic practice is not clearly defined, and its forms, tools and levers remain in arbitrary interpretation and are determined by the specifics of different levels of economic management. In our opinion, the issue of official interpretation of the essence and content of this category through legal legislation, substantiation of an effective mechanism of such responsibility and harmonization of its elements and levers with leading European practice is long overdue. The key aspect of such a mechanism should be not only the methods for assessing the damage caused and the form of its compensation, but also the potential mechanisms of assessing and preventing future risks and threats to the environment. An important place in the legislative field should be given to market (financial and economic) incentives for the implementation of the mechanism of environmental responsibility. The Directive on environmental responsibility has been in force in the EU for 16 years, the key principle of which is “the polluter pays”. However, along with measures of responsibility, the Directive provides for a system of effective incentives and motivators aimed at preventing environmental pollution.

The issue of development and adoption of the Environmental Code, which systematizes all regulatory and legal principles in the field of protection, reproduction and preservation of the natural environment, becomes relevant. The current Environmental Code of Kazakhstan is an example of such practice.

The conducted studies showed the presence of certain debatable aspects that are inherent in the current environmental legislation of Ukraine at the moment. In particular, in our opinion, the procedure for determining long-term damage caused to natural resources and the ecosystem as a result of environmental crimes needs to be worked out. Preservation of natural resources is one of the most important tasks of sustainable development, in connection with which there is a need for the formation of strategic financial reserves to eliminate the consequences of environmental crimes both in the short and long term. In the opinion of the authors, it is appropriate to hold accountable officials who have not demonstrated a high level of social responsibility in the performance of official duties in cases of environmental monitoring, granting licenses to business entities that have violated environmental legislation in the past, etc. At the same time, the mechanism for bringing such officials to justice remains debatable and requires additional elaboration. The authors also consider it appropriate to gradually increase the amount of sanctions for violating the standards of environmental legislation and the rate of environmental tax to the level of EU countries. At the same time, such decisions should receive further substantiation from the standpoint of not only legal, but also an economic approach. The procedure for determining the damage caused to the ecological environment and bringing to legal responsibility persons in the occupied territories and territories where active hostilities are taking place also appears to be a complex and urgent issue in Ukraine at present.

Conclusions. The conducted studies showed the presence of certain problematic aspects in the current environmental legislation of Ukraine, which at the present stage regulate legal responsibility for its violation. In particular, the procedures for assessing the amount of damage to the natural environment in the context of the principles of sustainable development remain uncoordinated. Regulations regarding liability for mining in ways that are destructive to the environment and cause long-term damage to it remain unclear. The lack of a systematic approach in determining the impact of damage caused to one of the components of the natural environment on the entire ecosystem as a result of the violation by business entities of

current regulations and standards is also characteristic of the environmental legislation of Ukraine. The analysis of damages caused to the natural environment of Ukraine as a result of violations of the current legislation showed a negative trend of increasing their size to UAH 4,068 million in 2021. Along with this, the level of compensation for damages caused by guilty parties is determined by rather low indicators – their share is 3.3 % according to the results of 2021 (the exception was 2022, which became uncharacteristic due to the military actions on the territory of the country). The procedure for identifying and bringing to justice the guilty parties remains a significant problem for the Ukrainian practice of compensation for damage caused to the natural environment. Thus, according to the fact of causing damage, about 62 % of the total losses remained unreimbursed due to the failure to identify the responsible persons.

In order to increase the level of legal responsibility for environmental offenses in Ukraine by legal entities and individuals, we consider it appropriate to propose the following measures:

1. To supplement the current methodology for calculating the amount of compensation for damages caused to the state as a result of above-standard emissions of atmospheric air pollutants, with planned indicators for reducing CO₂ emissions in accordance with the indicators specified in the program of Ukraine’s contribution to the Paris Agreement until 2030 (volume of emissions, equivalent, cost of emissions calculated per 1 ton of CO₂ by type of economic activity).

2. Development of a methodology for monitoring and assessing the environmental history of business entities that apply to state institutional bodies to obtain licenses for the use of natural resources.

3. Within the scope of expanding the functions of control activities of the State Environmental Inspection of Ukraine, it is expedient to create a register that will provide for the possibility of accounting for subjects of economic activity that have been held accountable for violating the norms of environmental legislation of Ukraine. The register must be transparent and made public. It is also appropriate to publish the results of control inspections by the State Environmental Inspection of business entities that have violated environmental legislation, and to provide the public with transparent information about the procedure for determining the amount of damage caused to the environment.

4. Increasing environmental tax rates in Ukraine to the level that is applied in EU countries.

5. Allocation of funds in local budgets for the creation and implementation of programs to promote a responsible attitude to the environment on the part of the population and business. With the help of mass media, social networks, and other tools of communication policy, it is advisable to strengthen the influence of the state on the responsible consumer behavior of the population, which is one of the factors stimulating the demand for environmentally friendly products (goods, services).

6. Supplementing Chapter XIV of the Tax Code of Ukraine with provisions that provide for the possibility of granting tax benefits or the application of a simplified regime of taxation of business entities, in case of transition (partial transition) to alternative sources of energy supply (reduction of the tax base by 5–10 % depending on the share of alternative sources in their aggregate structure).

The results of the conducted research made it possible to conclude that Ukraine needs to develop a new concept of environmental responsibility and protection of the natural environment, at the center of which will be the goals of sustainable development, a high level of social responsibility and the prevention of environmental risks and threats. One of the key areas of improvement of the current environmental legislation should be the predominance of the principle of preventing the occurrence of environmental violations over the principle of bearing actual responsibility.

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Проблемні питання щодо юридичної відповідальності за екологічні правопорушення в Україні

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Мета. Виявлення дискусійних і проблемних положень чинного законодавства України у сфері охорони природного середовища, що формують площину юридичної відповідальності за порушення екологічних стандартів і норм.

Методика. Були використані методи досліджень: монографічний, синтезу та аналізу, економіко-статистичний, метод деталізації й конкретизації отриманих результатів, метод науково-абстрактної систематизації результатів, графічний метод візуалізації результатів наукових досліджень.

Результати. В Україні створена нормативно-правова база, що регламентує систему відповідальності за екологічні правопорушення. Основними її формами є: дисциплінарна, адміністративна, цивільна, кримінальна. Виявлено, що для сучасного екологічного законодавства притаманні певні недоліки визначення та притягнення до відповідальності осіб, винних у порушенні норм діючих законів. Це підтверджується результатами аналізу розмірів завданих екосередовищу шкоди та збитків, динаміка розмірів яких в Україні щорічно зростає. Одночасно зі збільшенням розмірів завданих збитків зростає ступінь не виявлення осіб, які є відповідальними за завдання шкоди природним ресурсами й навколишньому середовищу. Аналіз регіонального розрізу екологічної відповідальності також продемонстрував значні розбіжності між адміністративними регіонами України в частині дисципліни екологічної відповідальності.

Наукова новизна. За результатами проведених досліджень були виявлені та проаналізовані основні проблемні аспекти щодо юридичної відповідальності за порушення екологічного законодавства в Україні. Визначена необхідність кардинальної зміни концепції екологічної відповідальності суб'єктів господарювання в рамках стратегії сталого розвитку. Запропонована поступова зміна базових принципів і підходів до відповідальності за порушення екологічного законодавства в напрямі превалювання превентивних функцій захисту навколишнього середовища над покаральними. Запропоновані інструменти можливого вдосконалення екологічного законодавства, зокрема: фіскальні преференції для толерантних до природного середовища виробництв, застосування торговельних квот для промислових підприємств, що є забруднювачами навколишнього середовища, гармонізація санкцій і ставок екологічного податку відповідно до законодавства європейських країн.

Практична значимість. Результати досліджень і запропоновані у статті заходи щодо вдосконалення діючого порядку й механізмів юридичної відповідальності за екологічні правопорушення можуть бути використані фахівцями юридичних відділів і служб на рівнях мікро- й макроуправління для розв'язання завдань подальшого вдосконалення чинного нормативно-правового базису та підвищення рівня соціальної відповідальності бізнесу й посадових осіб.

Ключові слова: екологічна відповідальність, природні ресурси, захист навколишнього середовища, екологічне законодавство

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