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INTERNATIONAL LEGAL REQUIREMENTS FOR IMPLEMENTATION OF STATE ENVIRONMENTAL CONTROL

Daria Rosokhata

*Ivan Franko National University of Lviv,
1, Universytetska Str., Lviv, Ukraine, 79000,
e-mail: daria.rosokhata@gmail.com
ORCID: 0000-0002-3485-8422*

The article is devoted to the study of international legal requirements for the implementation of state environmental control based on separate international legal acts in the field of environmental protection, which contain provisions on requirements for the organization and implementation of environmental control.

It is noted that the international legal requirements for the implementation of environmental control have yet to be comprehensively researched at the doctrinal level. Thus, previous research has mainly focused on studying the experiences of individual states rather than international treaties in environmental protection.

The Montreal Protocol on Substances that Deplete the Ozone Layer and the Council of Europe Landscape Convention regarding the provisions on the organization and implementation of environmental control at the national level are analyzed. It is found that the Montreal Protocol on Substances that Deplete the Ozone Layer contains a requirement to regulate economic activities with ozone-depleting substances and fluorinated greenhouse gases, and the provisions of the Council of Europe Landscape Convention articulate requirements for promoting the protection, regulation, and planning of landscapes. An integral part of these processes is the implementation of appropriate environmental control by the state, aimed at making proper management decisions. According to the analysis results, there is a tendency to improperly bring national legislation into compliance with the provisions of these international treaties in terms of state environmental control.

Amendments to the current legislation (to legislative and sub-legal normative legal acts) are proposed within the study framework. The above proposals will guarantee the implementation of effective state environmental control following the requirements of international treaties ratified by Ukraine.

Keywords: environmental monitoring, State Environmental Inspection, state control, state management, environmental function.

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Introduction. With the declaration of state independence, Ukraine ratified a number of international treaties in the field of environmental protection, undertook obligations to implement global projects in the Carpathians and the Danube Delta, was the initiator of the development and signing of the Framework Convention on the Protection and Sustainable Development of the Carpathians (Kyiv, 2003) [16, p. 313]. International law occupies a special place in the system of factors that ensure a harmonious combination of the interests of environmental protection and sustainable development of society [6, p. 8].

On the way to European integration and to fulfil the conditions for Ukraine's accession to the European Union, scholars and practitioners increasingly turn to

international experience and legal requirements. The reform of the state environmental control institute, which plays a crucial role in ensuring compliance with environmental standards, is no exception.

Research problem formulation. To date, international legal agreements in environmental protection, ratified by Ukraine, have yet to be fully and comprehensively implemented into national legislation [9]. At the same time, *substantive environmental norms* and *environmental procedural norms* are of great importance in enforcing such provisions. Such *environmental procedural norms* regulate, in particular, the environmental control of environmental components, which is the object of regulation of international legal treaties [2].

In this regard, it is appropriate to characterize international legal treaties in the field of environmental protection in terms of the presence of such requirements for the implementation of environmental control of particular components of the environment (*environmental procedural norms*), as well as the level of implementation of such provisions in national legislation. An attempt was made to investigate such main trends using the example of each separate international legal treaty in environmental protection.

Analysis of recent research and publications. At the doctrinal level, the issue of international legal requirements regarding the organization and implementation of state environmental control has not been considered sufficiently. Research devoted to this issue, until recently, has mainly focused on elucidating the experiences of individual countries of the world or particular components of the environment. Scientific provisions on the requirements for environmental control within the framework of international legislation are outlined in the works of O. Golovkin, V. Strelnyk, O. Hrytsan, and other scientists, and the essence of *environmental procedural norms* became the subject of research by A. Hetman [1, 3, 4].

The article aims to identify separate international legal treaties, namely the Montreal Protocol on Substances that Deplete the Ozone Layer and the Council of Europe Landscape Convention, with environmental procedural norms containing requirements for the organization and implementation of environmental control over particular components of the environment. In addition, it is worth finding out to what extent such provisions are implemented in national legislation and proposing amendments to the current legislation in the absence of comprehensive implementation.

In the context of the analysis of international legal requirements for the implementation of state environmental control, international legal acts that regulate relations in the field of environmental protection occupy an essential place. The main goal of all international legal acts is to reduce the negative impact on the environment and reduce the negative consequences for the environment due to climate change. The peculiarity of the provisions of international legal acts is that they have a cross-border nature and a significant influence on the formation of national legislation, including regulating relations with the organization and implementing state environmental control. Although international legal acts aim to overcome global environmental problems, the signatory states, at their own discretion, determine how to achieve the relevant requirements, indicators for reducing the negative impact on the environment, the form of control measures, and response measures that must be taken.

To a greater extent, international legal acts are a reference point for the state in which direction it should build its state environmental policy and what the expected gains are as a result of the implementation of such policy. Thus, Ukraine will concentrate on constructing a state environmental policy in the Strategy of State

Environmental Policy until 2030. Undoubtedly, this document has an impact on what goals should be achieved by the state, so the implementation of not only European environmental norms and standards but also international ones (the principle of international cooperation and European integration) play a vital role in the implementation of this policy [13].

When analyzing international legal acts for the presence of provisions on the organization and implementation of environmental control or related to this issue, it is crucial to understand in what format specific provisions of international treaties can be set forth (binding norms or norms of a recommendatory nature). Whether binding norms or recommendatory norms, it can impact how the state should react and take the necessary measures, including legislative ones.

We propose to analyze the Montreal Protocol on Substances that Deplete the Ozone Layer and the Council of Europe Landscape Convention within the scope of scientific research for the presence of requirements for the organization and implementation of environmental control and the level of implementation of the provisions of these acts into national legislation.

The Montreal Protocol on Substances that Deplete the Ozone Layer: Requirements for the Organization and Implementation of Environmental Control. The purpose of the Convention is to gradually reduce the consumption of fluorinated greenhouse gases, which significantly impact the climate [8]. Ukraine has been a Party to the Montreal Protocol on Substances that Deplete the Ozone Layer since 1988. To meet the requirements of the Montreal Protocol, Ukraine adopted the Law of Ukraine "On the Regulation of Economic Activities with Ozone-Depleting Substances and Fluorinated Greenhouse Gases," which regulates relations regarding the production, import, export, storage, use, placement of the market and handling of ozone-depleting substances, fluorinated greenhouse gases, goods, and equipment that contain or use them, which affects the ozone layer and the level of global warming, and some regulatory and legal acts in this area [11].

Article 16 of the Law of Ukraine "On the Regulation of Economic Activities with Ozone-Depleting Substances and Fluorinated Greenhouse Gases" provides that control over compliance with the requirements of this Law within the limits of its powers shall be carried out, in particular, by the State Environmental Inspection of Ukraine, its territorial and interregional territorial bodies [5]. However, this Law isn't included in the List of normative legal acts, according to which a List of issues related to state supervision (control) measures in the field of environmental protection, rational use, reproduction, and protection of natural resources is compiled [12].

The question arises as to whether the state environmental control bodies in the person of the State Environmental Inspection of Ukraine, its territorial and interregional territorial bodies, monitor compliance with the requirements of the Law of Ukraine "On Regulation of Economic Activities with Ozone Depleting Substances and Fluorinated Greenhouse Gases," and whether in such a case, control is carried out by Ukraine following the requirements of the Montreal Protocol.

Thus, it is necessary to make amendments to the Unified form of the act, drawn up as a result of the routine (non-routine) measure of state supervision (control) regarding compliance by the business entity with the requirements of legislation in the field of environmental protection, rational use, reproduction and protection of natural resources, approved by the order of the Ministry of Energy and Environmental Protection of Ukraine dated November 26, 2019 No. 450.

Council of Europe Landscape Convention: Requirements for the Organization and Implementation of Environmental Control. The purpose of the Convention is to

promote the protection, regulation, and planning of landscapes, as well as the organization of European cooperation on landscape issues (natural and anthropogenic). Making effective decisions based on the principles of the landscape approach today is becoming an objective way to transition to sustainable development [5]. A comprehensive approach by the state to protecting, regulating, and planning landscapes (natural and anthropogenic) will allow a more conscious approach to using available natural resources, considering environmental, economic, social, cultural, and other components.

An integral part of these processes is the state implementing appropriate environmental control to make proper management decisions. The Convention obliges states to implement some measures, mainly the need for legal recognition of the landscape as an essential component surrounding people and the implementation of instruments aimed at protecting, regulating, and planning the landscape [7]. Even though Ukraine ratified the European Landscape Convention in 2005, today, the introduction of landscape policy remains the same [14, 17]. On the other hand, current state plans and strategies must provide for goals and objectives, including at the operational level, indicating the prospect of forming and implementing a comprehensive landscape policy in Ukraine.

To achieve the above goals, the proper implementation of the Council of Europe Landscape Convention, and taking into account the fact that in Ukraine, there is a strategic environmental assessment procedure aimed at defining, describing, and evaluating the consequences of the implementation of state planning documents for the environment, it is necessary to develop and adopt a special law on landscapes or state strategy, which would determine the main vectors of landscape policy development. This is necessary so that the provisions of such special legislation are considered when developing state strategies, plans, schemes, urban planning documentation, state-wide programs, state target programs, and other programs and program documents, including amendments. It will guarantee the implementation of the requirements of the Convention ratified by Ukraine.

Based on the results of the analysis of individual international legal acts, we can conclude that the international legal requirements for the implementation of environmental control should be considered as being implemented only on the condition that: 1) A preliminary analysis is carried out on implementing the provisions of international treaties in the field of environmental protection in national legislation; 2) Analysis of current legislation to establish the relevant powers of state control over authorized bodies; 3) Analysis of relevant judicial practice regarding appeals against relevant decisions of regulatory bodies and complaints to the Committees of a particular convention (for example, an appeal against a positive conclusion from an environmental impact assessment on the construction of wind power plants (WPP) on the territory of the Emerald Network facility, which is protected by the Bern Convention on the Conservation of European Wildlife and Natural Habitats [10]); 4) Analysis of state reports on compliance with the provisions of the Convention.

Conclusions. Based on the above, the observance and implementation of international requirements in the field of environmental protection, particularly regarding the implementation of environmental control, play an essential role in implementing the state environmental policy of Ukraine, defined by its environmental strategy.

International agreements on environmental protection contain international legal requirements for the organization and implementation of environmental control (environmental procedural norms). Although state environmental control bodies do not in any way carry out checks on compliance by economic entities (businesses) with the

standards of international legal acts in environmental protection, they are responsible for monitoring compliance with the norms of national environmental legislation.

It is worth noting that at the stage of implementation, the following problematic issues occur: 1) Ukraine does not implement the provisions of the Convention, in connection with which proper state environmental control is not carried out; 2) Ukraine implemented the main provisions of the international agreement in the field of environmental protection, but did not grant the relevant control powers to the authorized body; 3) Ukraine fully or partially implemented the provisions of the Convention, but the state environmental control body improperly fulfils its powers to take measures to stop the negative impact on the environment (for example, contesting the positive conclusion from the assessment of the impact on the environment on the construction of wind power plants (WES) on the territory of the facility Emerald network protected by the Bern Convention on the Conservation of European Wildlife and Natural Habitats [10]).

Considering the above, an intermediate stage between ratifying the international legal agreement and implementing its provisions into national legislation is necessary. This will enable the state environmental control bodies to monitor the quality of Ukraine's compliance with international legal requirements.

A review of the Council of Europe Landscape Convention suggests that there are areas where more involvement of state environmental control bodies is needed. For example, concerning landscape policy, state environmental control bodies need to apply a landscape approach when conducting their inspections and defending public interests in courts.

Based on the results of scientific research, we consider it necessary to offer the following:

1. To conduct a review of international legal acts in environmental protection, ratified by the Verkhovna Rada of Ukraine, for proper and comprehensive implementation of the provisions of such acts.

2. During the preparation of the national report on the implementation and ratification of the provisions of the Convention, it is worth noting which of the state authorities is entrusted with monitoring the implementation of such implemented provisions (state environmental control bodies).

3. To make amendments to the Unified form of the act drawn up as a result of the routine (non-routine) measure of state supervision (control) regarding compliance by the business entity with the requirements of legislation in the field of environmental protection, rational use, reproduction and protection of natural resources, approved by order of the Ministry of Energy and of Environmental Protection of Ukraine dated 26.11.2019 No. 450, in terms of adding to the List of normative legal acts (under which state environmental control bodies carry out verification) of the Law of Ukraine "On Regulation of Economic Activities with Ozone Depleting Substances and Fluorinated Greenhouse Gases."

4. Develop and adopt a special law on landscapes or a state strategy to determine the main vectors of landscape policy development in Ukraine.

Other international legal acts in the field of environmental protection, which may contain information on the organization's requirements and implementation of environmental control at the national level, require further analysis. Further attention should be paid to international legal acts containing the following legal principles: "polluter pays," "prevention," and "precaution," which are often called the "three main environmental principles." It is equally important to pay attention to the sanctions that can be applied to the state in case of improper implementation or its absence in general.

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- sub'iektom hospodariuvannia vymoh zakonodavstva u sferi okhorony navkolysn'oho pryrodnoho seredovyscha, ratsional'noho vykorystannia, vidtvorennia i okhorony pryrodnykh resursiv : Nakaz Ministerstva enerhetyky ta zakhystu dovkillia Ukrainy vid 26.11.2019 № 450. March 22, 2024. Retrieved from <https://zakon.rada.gov.ua/laws/show/z1293-19#Text>.*
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МІЖНАРОДНО-ПРАВОВІ ВИМОГИ ЗДІЙСНЕННЯ ДЕРЖАВНОГО ЕКОЛОГІЧНОГО КОНТРОЛЮ

Дар'я Росохата

*Львівський національний університет імені Івана Франка,
вул. Університетська, 1, Львів, Україна, 79000,
e-mail: daria.rosokhata@gmail.com
ORCID ID: 0000-0002-3485-8422*

Присвячено дослідженню міжнародно-правових вимог здійснення державного екологічного контролю на основі окремих міжнародно-правових актів у сфері охорони навколишнього природного середовища, котрі містять положення щодо вимоги до організації та здійснення екологічного контролю.

Зауважено, що на доктринальному рівні недостатньо комплексно досліджено міжнародно-правові вимоги до здійснення екологічного контролю. Так, попередні наукові розвідки переважно зосереджені на вивченні досвіду окремих держав, а не міжнародних договорів у сфері охорони довкілля.

Проаналізовано Монреальський протокол по речовинах, що руйнують озоновий шар, та Європейську ландшафтну конвенцію стосовно положень щодо організації та здійснення екологічного контролю на національному рівні. Виявлено, що Монреальський протокол по речовинах, що руйнують озоновий шар, містить у собі вимогу щодо регулювання господарської діяльності з озоноруйнівними речовинами та фторованими парниковими газами, а положення Європейської ландшафтної конвенції чітко артикулюють вимоги щодо сприяння охороні, регулюванню та плануванню ландшафтів. Невід'ємною частиною цих процесів є здійснення належного екологічного контролю з боку держави, спрямованого на прийняття належних управлінських рішень. За результатами аналізу простежується тенденція щодо неналежного увідповіднення національного законодавства до положень цих міжнародних договорів у частині здійснення державного екологічного контролю.

У межах дослідження запропоновані зміни до чинного законодавства (до законодавчих та підзаконних нормативно-правових актів). Наведені пропозиції гарантуватимуть здійснення ефективного державного екологічного контролю відповідно до вимог ратифікованих Україною міжнародних договорів.

Ключові слова: екологічний моніторинг, Державна екологічна інспекція, державний контроль, державне управління, екологічна функція.

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