

ADMINISTRATION BODIES IN ENSURING OF NATIONAL ENVIRONMENTAL SAFETY

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INTRODUCTION

Environmental safety, as the state of the environment, which prevents the deterioration of the environmental situation and the emergence of danger to human health, is guaranteed to Ukrainian citizens by implementing a wide range of interrelated political, economic, technical, organizational, state-legal and other measures. It should be noted that certain aspects of the activities of state authorities in the field of environmental safety and environmental protection were devoted to the work of L.O. Dobryansky, D.V. Zerkalov, I.D. Kazanchuk, V.A. Lipkan, N.V. Maksimenko, R.V. Miroschnichenko, N.M. Nesterenko, P. Fesyanyov, O.M. Shumilo, and others. Also, modern issues of environmental safety have also been reflected in the work of the National Institute for Strategic Studies. Together with the mentioned, it should be noted that in the scientific literature enough attention is paid to the activities of the highest bodies of state power in the environmental sphere, focusing primarily on the implementation of control powers by individual executive authorities. The above thesis determines the scientific analysis of the role and place of the supreme bodies of state power: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine. The need for this is conditioned by changes in the national administrative legislation, updating of existing approaches to the organization of the functioning of the entire system of executive power bodies and local self-government in the field of environmental protection and ensuring environmental safety, the need to approximate national environmental legislation to the relevant directives of the European Union. Also indicated due to the fact that in the domestic legal literature these issues were not studied sufficiently, specifically with regard to the development of the administrative and legal principles of management in the field of environmental security in general, have not been investigated in practice.

1. Peculiarities of the activities of the supreme bodies of state power in the field of ensuring national ecological safety

The analysis of the norms of the Constitution of Ukraine proves that the powers of the Verkhovna Rada of Ukraine that affect environmental social relations include: adoption of laws in the field of ecology, environmental protection, rational nature use; approval of national programs of environmental protection; control over the activity of the Cabinet of Ministers of Ukraine in relation to the formation and implementation of state policy in the environmental sphere; approval of decrees on the announcement of individual areas by areas of emergency ecological situation; implementation of parliamentary control over the observance of citizens' environmental rights¹.

Adoption of laws on regulation of public relations in the field of environmental safety, environmental protection, and rational nature management is a priority task of the Verkhovna Rada of Ukraine. At the same time, it should be noted that, in accordance with the provisions of the Basic Law, only the laws of Ukraine are defined: rights and freedoms of a person and a citizen, guarantees of these rights and freedoms; main duties of a citizen, including in the environmental sphere; principles of the use of natural resources, the exclusive (marine) economic zone, the continental shelf; principles of regulation of ecological safety; legal regime of areas of emergency ecological situation.

1. According to the resolution of the Verkhovna Rada of Ukraine "On the List, Quantitative Composition and Issues of the Committees of the Verkhovna Rada of the Eighth Convocation", it shall include the Committee on Environmental Policy, Use of Natural Resources and Elimination of the Consequences of the Chernobyl Disaster (hereinafter – the Committee). Among the issues that fall within the scope of this Committee are the following: protection, conservation, use and restoration (reproduction) of natural resources, including subsurface, forest, water resources, atmosphere, fauna and flora, natural landscapes; preservation and balanced use of natural resources of the exclusive (marine) economic zone, continental shelf and development of outer space; ecological safety, prevention and liquidation of consequences of natural disaster, technogenic accidents and catastrophes, activity of state emergency rescue services;

¹ Конвенція про оцінку впливу на навколишнє середовище у транскордонному контексті : Міжнародний документ від 25.02.1991. URL: http://zakon3.rada.gov.ua/laws/show/995_272.

radiation and fire safety; legal regime of a zone of emergency ecological situation; state policy in the field of waste management, etc.²

During the last two sessions of the Verkhovna Rada of Ukraine of the eighth convocation for the analytical and organizational support of the Committee, the following were adopted: 1) Law of Ukraine “On Environmental Impact Assessment” (No. 2059-VIII dated May 23, 2017). The purpose of the law is to establish legal and organizational principles for the environmental impact assessment and to ensure Ukraine’s compliance with international obligations under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Convention on Access to Information, Public Participation in Decision-making and access to justice in environmental matters (the Aarhus Convention), to which Ukraine is a party, as well as the implementation in national legislation of the provisions of Directives 2003/4/EC and 2011/92/EC; 2) The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Implementation of European Environmental Norms on the Protection of the Environment of Rare Species of Animals and Plants” (No. 1829-VIII of 07.02.2017), which is aimed at the implementation of European environmental norms on environmental protection rare species of animals and plants, as well as protection against the destruction of the habitat (growth) of the specified species of animal and plant world included in the Red Data Book of Ukraine; 3) The Law of Ukraine “On Amending Certain Legislative Acts of Ukraine on the Implementation of the Convention on the Conservation of Wildlife and Natural Living in Europe” (No. 1832-VIII of 07.02.2017), which introduces the strengthening of the protection of rare species of animals and plants listed in the Berne Convention.

In addition to the work of the committees of the Verkhovna Rada of Ukraine and the deputy corps, the activities of individual deputies regarding the exercise of their control powers in the field of state environmental policy formation and implementation, and the provision of environmental rights and freedoms of citizens should be noted. According to the provisions of the Law of Ukraine “On the Status of a People’s Deputy of Ukraine”, a people’s deputy has the right to request a session of the Verkhovna Rada of Ukraine.

² Про перелік, кількісний склад і предмети відання комітетів Верховної Ради України восьмого скликання : Постанова Верховної Ради України від 04.12.2014 № 22-VIII. URL: <http://zakon2.rada.gov.ua/laws/show/22-19>.

It should also focus on exercising parliamentary control over the observance of environmental rights of citizens in the activities of state bodies, which form and implement state policy in various spheres of public life. The current legislation of Ukraine determines that parliamentary oversight of observance of constitutional rights and freedoms of man and citizen and the protection of the rights of everyone in the territory of Ukraine and within its jurisdiction on a permanent basis is carried out by the Commissioner of the Verkhovna Rada of Ukraine on human rights.

In the structure of the Commissioner's Secretariat there is the Department for the Compliance with the Socio-Economic and Humanitarian Law of the Secretariat of the Ombudsperson of the Verkhovna Rada of Ukraine for Human Rights, the main tasks of which are to ensure the implementation of the powers of the Commissioner in the sphere of exercising parliamentary control over the observance of social, economic and humanitarian and human and civil rights and freedoms, which include the citizens' right to a safe environment, environmental information, etc.³

It is also advisable to consider the role of the President of the country – the President of Ukraine in ensuring the ecological safety of Ukraine. In accordance with Article 106 of the Constitution of Ukraine, the President exercises the following powers: 1) ensures the national security of Ukraine, an integral part of which is ecological security; 2) suspends the acts of the Cabinet of Ministers of Ukraine on issues of environmental protection, ecological safety, provision of environmental rights of citizens on the grounds of non-compliance with the Basic Law with simultaneous appeal to the Constitutional Court of Ukraine regarding their constitutionality; 3) Head of the National Security and Defense Council of Ukraine; 4) if necessary, decide on the introduction of a state of emergency in Ukraine or in its separate areas, and also, if necessary, announce, if necessary, certain areas of Ukraine as zones of emergency ecological situation, with subsequent approval of these decisions by the Verkhovna Rada of Ukraine, etc.

In addition to the work of the committees of the Supreme Council and the deputy corps, the activities of individual deputies regarding the exercise of their control powers in the field of state environmental policy formation and implementation, and the provision of environmental rights

³ Департамент з питань дотримання соціально-економічних та гуманітарних прав Секретаріату Уповноваженого Верховної Ради України з прав людини. *Офіційний сайт Уповноваженого Верховної ради з прав людини*. URL: <http://www.ombudsman.gov.ua/ua/page/sehl/>.

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Among the abovementioned normative acts of the President should first of all highlight the acts in the area of nature conservation, conservation of objects of the nature reserve fund, rational nature management, in particular, “On additional measures for the development of forestry, rational nature management and conservation of objects of the

nature reserve fund” Dated November 21, 2017 No. 381; “On Creation of the Chernobyl Radiation-Ecological Biosphere Reserve” dated April 26, 2016, No. 174; “On the creation of the national nature park “Northern Podillya”” dated 10.02.2010, No. 156; “On the creation of the national natural park “Maloe Polissya”” dated 02.08.2013 number 420; “About the declaration of the natural water area of the Black Sea botanical reserve of the national value “Small Phyllophora Field” from August 31, 2012 № 527.

In accordance with Articles 106 and 107 of the Constitution of Ukraine, the President of Ukraine exercises control over the security and defense sector both directly and through the National Security and Defense Council of Ukraine headed by him and advisory, consultative and other subsidiary bodies and services created by him. The Law of Ukraine “On National Security” defines it as “the protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats. State policy in the areas of national security and defense is aimed at ensuring the military, foreign policy, state, economic, informational, ecological safety of Ukraine, etc.”⁴

Decisions of the National Security and Defense Council of Ukraine are enacted by the Decrees of the President of Ukraine. As examples of these decisions, the following can be cited: “On the decision of the National Security and Defense Council of Ukraine dated November 4, 2014 “On urgent measures to stabilize the socio-economic situation in Donetsk and Luhansk regions”” of November 4, 2014, No. 875/2014; “On the composition of the Commission on Biosafety and Biological Protection at the National Security and Defense Council of Ukraine” dated November 20, 2017 No. 377; “On the decision of the National Security and Defense Council of Ukraine dated October 12, 2018” On urgent measures to protect national interests in the South and East of Ukraine, in the Black and Azov Seas and the Kerch Strait”” dated October 12, 2018, No. 320.

Consequently, the President of Ukraine, as the guarantor of the Constitution of Ukraine, ensures the observance, protection and realization of ecological rights and freedoms of citizens, directs the efforts of central and local executive authorities to ensure the country’s environmental

⁴ Про національну безпеку України: Закон України від 21 червня 2018 року № 2469-VIII. *Офіційний вісник України від 20.07.2018 2018 р.*, № 55, стор. 51, стаття 1903, код акта 90815/2018.

security, environmental protection, the organization of rational nature management, and the preservation of the natural reserve fund.

Next, let's turn to the field of executive branch of government. According to Article 113 of the Constitution of Ukraine, the Cabinet of Ministers of Ukraine is "the supreme body in the system of executive bodies. The Cabinet of Ministers of Ukraine takes measures to ensure the rights and freedoms of man and citizen; ensures policy in the areas of nature conservation, ecological safety and nature management". The main tasks of the Cabinet of Ministers of Ukraine in relation to environmental safety and the state of the environment are: protection of nature, ecological safety and nature management, implementation of measures to ensure the elimination of the consequences of emergencies, including environmental ones.

To ensure the effective implementation of the powers of the Cabinet of Ministers, coordination of the executive authorities, preliminary consideration of drafts of normative legal acts, main directions of implementation of state policy, incl. in the environmental sphere, Government Committees are formed. In accordance with the resolution of the Cabinet of Ministers of Ukraine "On the formation of government committees and the approval of their officers", the Government Committee on Economic, Financial and Legal Policy, the Development of the Fuel and Energy Complex, Infrastructure, Defense and Law Enforcement activities are currently in operation; Governmental Committee on Social Policy and Humanitarian Development; Governmental Committee on European, Euro-Atlantic Integration, International Cooperation and Regional Development⁵.

The Governmental Committee on Economic, Financial and Legal Policy, Development of the Fuel and Energy Complex, Infrastructure, Defense and Law Enforcement activities preliminary examines draft laws, acts of the President of Ukraine and the Cabinet of Ministers on the national environmental security with unregulated differences in the positions of the interested bodies and / or reservations of the Secretariat of the Cabinet of Ministers; draft regulations of the Cabinet of Ministers on the approval of the concepts of implementation of state policy in the field of environmental security, concepts of state target programs and laws.

If we talk about the units of the Cabinet of Ministers of Ukraine responsible for its activities on the formation and implementation

⁵ Про утворення урядових комітетів та затвердження їх посадового складу : Постанова Кабінету Міністрів України від 11.05.2016 № 330. URL: <http://zakon2.rada.gov.ua/laws/show/330-2016-%D0%BF>.

of state policy in the field of environmental security, then the following should be said. As part of the Secretariat of the Cabinet of Ministers of Ukraine, the Department for Safety of Life, Environmental Protection and Agro-Industrial Complex was created. It is comprised of the Office for the Safety of Life and Environmental Protection, the Office for Environmental Management and the Development of the Agro-Industrial Complex.

The study of the powers of the Government of Ukraine and its structural units allows also to propose appropriate organizational and normative measures that, in our opinion, will allow to increase the openness and transparency of the activities of this higher executive body in relation to ensuring environmental safety. According to the Regulation on the Secretariat of the Cabinet of Ministers of Ukraine, the Minister of the Cabinet of Ministers of Ukraine determines, within the limits of the approved structure and the limit of staff of the Secretariat, the number of employees of the structural subdivisions of the Secretariat, submits to the Cabinet of Ministers of Ukraine a submission regarding approval of the structure of the Secretariat and the limits of its employees; approves the regulations on structural units.

Thus, it should be noted that the Cabinet of Ministers of Ukraine is responsible for the formation of the national policy in the field of environmental safety, manages the system of executive bodies (central, local) responsible for the implementation of environmental protection policy and the use of nature as a basis for ensuring environmental safety. In pursuance of the established powers, the Cabinet of Ministers of Ukraine, in particular, develops projects of national environmental programs, issues normative and individual acts of management. The Cabinet of Ministers of Ukraine is authorized to approve the provisions on central executive authorities that implement state policy in the field of environmental security, to implement measures for their reorganization and improvement of organizational structure.

2. The system of central executive bodies in the field of ensuring national environmental safety

Ensuring national ecological safety is inextricably linked with the activities of the executive authorities responsible for the formation and implementation of state policy in the field of ecology. In this regard, it should be noted that the sphere of public relations covered by the concept of “environmental safety” and other social relations, the ordering of which directly affects the optimal state of the environment, which is a

guarantee of ecological safety of Ukraine, requires the scientific analysis of issues aimed at streamlining the system and activities of executive authorities that have the appropriate authority to ensure the country's environmental security.

By definition, reference and dictionary literature, the term "competence" comes from the Latin "competentia" (management, ability, affiliation with the law) and represents a set of subjects of jurisdiction, functions, powers, rights and responsibilities of the executive body, an official. Consequently, the term "competence" is generally associated with the scientific community with the notion of "authority".

Based on the foregoing, we must make such interim conclusions regarding the content of the concept of "competence". 1. The term "authority" is not a synonym of competence, it is an integral part of it. 2. The structure of the competence of the state body, in addition to the powers, which is understood as the set of normatively enshrined rights and responsibilities, include "subjects of jurisdiction", that is, the range of issues that the relevant body decides through the implementation of the respective rights and responsibilities, as well as "limits activity" – the spatial framework, in which rights and responsibilities are exercised over certain subjects of command. 3. Inclusion in the structure of the competence of the forms and methods of the body's activity is considered incorrect, as they are an external expression of the exercise of authority, as well as methods and methods of such implementation, respectively. The same applies to functions, goals, tasks, because they are, along with the competence, part of a more general notion – "the legal status of a public authority".

The system of central bodies of executive power, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine directly and through appropriate members of the Cabinet of Ministers of Ukraine, is as follows: 1) the Cabinet of Ministers of Ukraine – the State Inspection of Nuclear Regulation of Ukraine; 2) through the Vice Prime Minister of Ukraine – Minister of Regional Development, Construction and Housing and Communal Services – State Architectural and Construction Inspection of Ukraine; 3) through the Minister of Agrarian Policy and Food: the State Service of Ukraine for Geodesy, Cartography and Cadastre; State Service of Ukraine for Food Safety and Consumer Protection; State Agency of Fisheries of Ukraine; State Forest Resources Agency of Ukraine; 4) through the Minister of Ecology and Natural Resources: the State Service of Geology and Subsoil of Ukraine; State Agency of Ukraine for the management of the exclusion zone; State

Agency of Water Resources of Ukraine; State Ecological Inspection of Ukraine; 5) through the Minister of Infrastructure: the State Aviation Service of Ukraine; State Service of Ukraine on Transport Safety; State service of sea and river transport of Ukraine; 6) through the Minister of Internal Affairs: the State Service of Ukraine for Emergencies⁶.

The Ministry of Agrarian Policy and Food of Ukraine has the authority to formulate and implement state policy in the following areas: a) national agriculture and food security, livestock farming, plant growing, rural development, gardening of the food and processing industry; b) fish and fish industry; c) the protection, use and reproduction of aquatic biological resources, forestry and hunting, veterinary medicine, safety and quality of food products, in the areas of quarantine and plant protection; d) land relations, land management, state supervision (control) in the agro-industrial complex.

The Ministry of Infrastructure of Ukraine approves requirements for the use of buses by types of connections, modes of movement and length of routes, according to parameters of passenger capacity, comfort, technical and ecological indicators; carries out methodical management of economic entities belonging to the sphere of its management in relation to the fulfillment of the requirements of the technological and fire safety requirements, as well as control over the fulfillment of these requirements.

The Ministry of Regional Development, Construction and Housing and Communal Services: a) ensures the formation and implementation of policies for the improvement of settlements, the management of domestic waste; b) approves the procedure for monitoring the quality of drinking water and the technical state of objects of centralized drinking water supply, methodical recommendations for monitoring the processes of flooding of cities and towns of urban type; c) adopt regulatory and regulatory documents on architectural and construction control and supervision; d) provides, within the limits of the powers stipulated by law, normative, scientific, technical and expert support of construction works at the Shelter and other facilities of the Chernobyl Nuclear Power Plant, etc.⁷

⁶ Про оптимізацію системи центральних органів виконавчої влади : Постанова Кабінету Міністрів України від 10.09.2014 № 442. URL: <http://zakon0.rada.gov.ua/laws/show/442-2014-%D0%BF>.

⁷ Про затвердження Положення про Міністерство регіонального розвитку, будівництва та житлово-комунального господарства : Постанова Кабінету Міністрів

The ministries carry out the following groups of powers to ensure the country's environmental safety: rule-making powers; organizational credentials; information authority; permit-license privilege; control powers.

Activities of the State Inspectorate for Nuclear Regulation of Ukraine are directed and regulated directly through the Cabinet of Ministers of Ukraine. Ensuring the national nuclear safety is directly related to environmental safety. Violation of the normal functioning of nuclear facilities can have a significant impact on the ecology and health of the population of Ukraine.

The maintenance of the proper regime of water bioresources is provided by the State Fisheries Agency of Ukraine, which is also responsible for the implementation of state policy in the field of protection, use and reproduction of water bioresources, regulation of fishing, safety of navigation of vessels of the fleet of fisheries.

The State Aviation Service, which implements state policy in the field of civil aviation and airspace use of Ukraine, has one of the tasks to implement comprehensive measures to ensure environmental safety. For this purpose, in particular, it organizes and controls, within the limits of the powers provided by law, the subjects of aviation activity and airport operators in respect of compliance with the aviation rules of Ukraine in terms of ensuring the environmental safety of civil aviation⁸.

In September 2017, the State Service for Marine and River Transport of Ukraine was created by a resolution of the Cabinet of Ministers of Ukraine. We emphasize that this resolution enters into force from the day of its publication, except for paragraphs 1, 2, 5-7 and amendments approved by this resolution, which come into force simultaneously with the act of the Cabinet of Ministers of Ukraine on the possibility of ensuring the implementation of the powers of the State Service of Marine and River Transport of Ukraine and performance of functions. Instead, such an act had not been issued before. In the event of its adoption, some of the powers of the State Service of Ukraine on Transport Security will be assigned to this service, but in terms of functioning of sea and river transport.

On the basis of the above, one can say that the central executive bodies of the lower level (services, agencies, inspections) have so-called nationwide territorial competence, since their powers are exercised throughout the

України від 30.04.2014 № 197. URL: <http://zakon3.rada.gov.ua/laws/show/197-2014-%D0%BF>.

⁸ Про затвердження Положення про Державну авіаційну службу України : Постанова Кабінету Міністрів України від 08.10.2014 № 520. URL: <http://zakon2.rada.gov.ua/laws/show/520-2014-%D0%BF>.

territory of Ukraine, with the exception of the State Agency for the Management of the Exclusion Zone, since it has clearly defined the boundaries of territorial action, as regards subjects of jurisdiction, are the bodies of sectoral competence, since their rights and obligations must be implemented in certain areas of environmental protection and At the same time, the State Environmental Inspectorate can be considered as the body of inter-branch competence, since its powers are extended to several spheres of the public sphere (social, environmental, social, and environmental). relations that are part of the subject of environmental safety.

In May 2017, the Cabinet of Ministers of Ukraine adopted the Concept for reforming the system of state supervision (control) in the field of environmental protection. According to this document, Ukraine is proposing the creation of a single integrated state body for environmental monitoring and supervision (control) instead of the existing State Environmental Inspectorate⁹.

On the basis of the foregoing, we shall conclude that in order to optimize the system of central executive authorities and their competence regarding the provision of environmental safety in Ukraine, a single state body for monitoring and control should be created – the State Service for Ecological Safety of Ukraine, since it is ecological safety that is more integrated with the term containing as components of the protection of the environment, as well as other social relations that may be violated as a result of violations of established environmental regimes and use of natural resources. In addition, such a move will be in line with the provisions of the Coalition Agreement, which stipulates the need for the creation of a single environmental supervisory authority and the transfer of all its control functions to the requirements of Directive 2010/75/EC on industrial emissions (Integrated Pollution Prevention and Control) and Directive 96/82/EC on the control of risks of accidents due to hazardous substances, as amended by the Directive 2003/105 / EC and Regulation (EC) No 1882/2003¹⁰.

The future structure of this body may be taken as a basis for the provisions of the Concept for reforming the system of state supervision (control) in the field of environmental protection as of 31.05.2017

⁹ Про схвалення Концепції реформування системи державного нагляду (контролю) у сфері охорони навколишнього природного середовища : Постанова Кабінету Міністрів України від 31.05.2017 № 616-р. URL: <http://zakon2.rada.gov.ua/laws/show/616-2017-%D1%80>.

¹⁰ Угода про Коаліцію депутатських фракцій «Європейська Україна» від 27.11.2014. URL: <http://zakon0.rada.gov.ua/laws/show/n0001001-15>.

(10 interregional territorial bodies of the Service and 27 special regional inspection offices in their composition). Moreover, one should be careful about the issue of marine environmental inspections, because the protection of the marine environment has its own specificity, and marine ecosystems are particularly sensitive to man-made influences, human activities. For this purpose, separate departments for the protection of marine areas should be maintained within the State Environmental Service.

It is also necessary to transfer the authority to the newly created service to monitor the state of environmental safety and the environment. Currently, in the existing system of state bodies, the monitoring of such monitoring has been formally misunderstood among 11 bodies; instead, there is no body that would directly monitor the monitoring itself.

We believe that, in addition to the powers to monitor the state of environmental safety and the environment, the State Environmental Service should have rights and obligations to coordinate such monitoring at the local (regional) level. Formally, this direction of work belongs to the Ministry of Ecology and Natural Resources, but in the absence of relevant territorial bodies it does not. From this follows another component of the competence of the service – the organization and implementation of the interaction of the Ministry of Ecology and Natural Resources, services and profile departments of regional state administrations in the implementation of environmental protection measures and monitoring of the state of environmental safety and the environment at the regional level.

At the regional level, local authorities often adopt a variety of regional environmental programs, but often their effectiveness is questionable. Consequently, it may be proposed to include in the powers of the State Service for Environmental Safety the right to coordinate and evaluate the effectiveness of local environmental measures on the criterion of their impact on environmental safety in the region, and not on the fact of spending budget funds.

On our opinion, it would be expedient to add to the scope of the competence of the State Architectural and Construction Inspectorate in the implementation of the national standards of “green (ecological) construction” and, accordingly, control over their compliance. Such work can be carried out in conjunction with the relevant regional subdivision of the State Environmental Protection Service of Ukraine. On this occasion, it should be noted that for the last several years, green (environmental) construction has been massively implemented on the

world market, and in 2016 Ukraine has entered the World Council on “green construction”¹¹.

Specialists note that the advantages of this type of activity for the ecology of a country or separate region are: 1) significant reduction of greenhouse gas emissions, garbage and contaminated waters; 2) the expansion and protection of the natural habitat and biological diversity; 3) conservation of natural resources.

3. Administrative and legal principles of activity of local state administrations and bodies of local self-government on ensuring of ecological safety of Ukraine

Under the administrative and legal principles of the activities of local state administrations and bodies of local self-government, the provision of environmental safety of Ukraine should be understood as a set of administrative and legal norms that are enshrined in legislative and subordinate acts of Ukraine, which define the main tasks, principles, powers, forms and methods of activity of local authorities executive power and local self-government to ensure the ecological safety of Ukraine, and also serve as the basis for their legal status and body ted in the overall functioning entities ensuring environmental security.

The Law of Ukraine “On Local State Administrations” specifies and extends these powers. The norms of this law are the basis of the administrative and legal status of local administrations, which consists, first of all, in the fact that they are entrusted with the administration of organizational and regulatory powers in this area, ensuring the implementation of environmental legislation, the implementation of general control over the implementation of state policy in the field of environmental security in the territory the corresponding administrative-territorial unit (region, district).

In order to ensure the transfer of authority from the territorial bodies of the Ministry of Environmental Protection, the regional, Kyiv and Sevastopol city state administrations in the local state administrations created structural units of ecology and natural resources in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated March 15, 2013, No. 338 “On increasing the limit number workers of regional, Kyiv and Sevastopol city state administrations” and the resolution of the Cabinet

¹¹ «Зелене» будівництво в Україні: однієї енергоефективності замало. URL: <https://www.vectornews.net/exclusive/19131-zelene-budvnictvo-v-ukrayin-odnyeyi-energoefektivnost-zamalo.html>.

of Ministers of Ukraine of April 18, 2012 № 606 “On approval of the advisory lists of structural subdivisions of the regional, Kyiv and Sevastopol city, district, district in cities of Kyiv and Sevastopol state administrations”.

It should also pay attention to the content of the provisions on the structural units of regional state administrations in various areas. Analyzing them, we can observe the ambiguity of some of the provisions.

The Resolution of the Cabinet of Ministers of Ukraine No. 887 of September 26, 2012, on approving the Model Regulations on the structural subdivision of the local state administration¹² notes that the structural subdivision is subordinated to the head of the local state administration, as well as accountable and controlled by the relevant ministries and other central executive bodies. At the same time, some provisions on structural subdivisions of local state administrations that exercise powers in the field of ecology and natural resources have not been updated. Thus, the Department of Ecology and Natural Resources of the Zhytomyr Regional State Administration is accountable and subordinate to the head of the regional state administration, accountable to the Ministry of Ecology and Natural Resources of Ukraine, the Department of Ecology and Natural Resources of the Chernihiv Regional State Administration is subordinate to the head of the regional state administration, and also accountable to the Ministry of Ecology and Natural Resources Ukraine, Department of Ecology and Natural Resources of Ivano-Frankivsk Regional State Administration subordinate to the head of regional administration and is accountable to the Ministry of Ecology and Natural Resources of Ukraine. On the basis of the examples given, we believe that the provisions on the structural subdivision of the local state administration responsible for implementing the state policy in the field of ecology and natural resources require unification in accordance with the Resolution of the Cabinet of Ministers of Ukraine No. 887 of September 26, 2012.

Consequently, the administrative and legal forms of activity of the mentioned divisions are the publication of normative acts (orders of departments, departments), issuance of permits, approval of draft regulations and other documents of administrative and permitting nature.

Local governments, representing the respective territorial communities, as well as the common interests of territorial communities of

¹² Про затвердження Типового положення про структурний підрозділ місцевої державної адміністрації : Постанова Кабінету Міністрів України від 26.09.2012 № 887. URL: <http://zakon0.rada.gov.ua/laws/show/887-2012-%D0%BF>.

villages, settlements, cities, and exercising on their behalf and in their interests the functions and powers of local self-government, are village, township, city, region and district councils. These councils have executive bodies that are supervised and accountable to relevant councils, and, with regard to the exercise of powers delegated to them by executive authorities, are also under the control of the relevant executive bodies¹³.

The peculiarity of the organization of work of local self-government bodies is that it is carried out in the form of sessions consisting of plenary meetings of the council, as well as meetings of permanent commissions of the council. Consequently, with regard to the implementation of state and regional policy in the field of environmental security, they are addressed at relevant plenary meetings of the council, in particular, they include: 1) approval of targeted programs for the provision of environmental safety and protection of the environment; 2) making decisions on the organization of territories and objects of the nature reserve fund of local importance and other territories subject to special protection; 3) making suggestions to the relevant state bodies regarding the declaration of natural and other objects of ecological value, natural monuments protected by law, decisions on announcements in places of mass reproduction and growing offspring of wild animals with a “season of silence” with a restriction economic activity and extraction of objects of fauna; 4) the provision in accordance with the law of consent for placement in the territory of the village, settlement, city of new facilities, including places or objects for the placement of waste, the field of environmental impact of which, in accordance with the regulations in force, includes the territory concerned; 5) approval in accordance with the established procedure of local city-planning programs, general plans of development of the corresponding settlements, other city-planning documentation.

At first glance it may seem that the issues of urban planning are not related to the provision of environmental safety. Instead, according to the provisions of the Law of Ukraine “On Environmental Protection”, planning, accommodation, development and development of settlements are carried out by the decision of local councils taking into account the environmental capacity of the territories, adherence to the requirements of environmental protection, rational use of natural resources and

¹³ Про місцеве самоврядування в Україні : Закон України від 21.05.1997 № 280/97-ВР. URL: <http://zakon2.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>.

environmental safety¹⁴. In developing general plans for the development and placement of settlements, rural, city and city councils establish a regime for the use of natural resources, environmental protection and environmental safety in suburban and green zones, in agreement with local councils in whose territory they are located, in accordance with the legislation of Ukraine¹⁵.

The specified powers of local self-government bodies in ensuring environmental safety and environmental protection are specified in the sectoral laws regulating the issue of a safe environment. The main result of the work of village, settlement and local councils is the approval of regional programs of ecological safety, protection and protection of the natural environment and control over their implementation.

Consequently, executive bodies of local councils carry out administrative and administrative functions, use such forms of administrative activity as publication of administrative acts, approval of draft permits, establishment of environmental restrictions, perform supervisory functions regarding the subjects responsible for the implementation of decisions of the local council in the field of environmental protection, state and local environmental programs.

To ensure the activity of executive committees of local self-government bodies, the so-called apparatus of the executive committee is formed consisting of departments and departments that organizationally ensure the preparation of documents on environmental issues, monitor the progress of the implementation of state and regional environmental programs on the territory of the relevant council, and carry out permitting and conciliation activities.

CONCLUSIONS

The supreme bodies of state power are responsible for the formation of normative and legal and organizational grounds for the implementation of state policy in the field of environmental safety. The main task of the Verkhovna Rada of Ukraine is the adoption of laws in the areas of ecology, environmental protection, nature management. An important direction of the activity of this body is the implementation of parliamentary control

¹⁴ Ємець Л. О. Адміністративно-правові засади діяльності органів місцевого самоврядування щодо забезпечення екологічної безпеки держави. *Вісник Харківського національного університету внутрішніх справ*. 2017. № 2. С. 127–137. С. 130.

¹⁵ Про охорону навколишнього природного середовища : Закон України від 25 червня 1991 року № 1264-ХІІ. *Відомості Верховної Ради України (ВВР)*. 1991. № 41. Ст. 546.

over the provision of environmental rights of citizens, which is carried out by the Commissioner of the Verkhovna Rada of Ukraine on Human Rights. The Verkhovna Rada's control powers are realized through the mechanism of deputy requests and appeals. The President of Ukraine ensures the protection and implementation of environmental rights and freedoms of citizens, directs the efforts of central and local executive authorities to ensure the country's environmental security, environmental protection, the organization of rational nature management, and the preservation of the nature reserve fund. The Cabinet of Ministers of Ukraine (governmental committees, separate units of the Government, special coordination bodies responsible for national environmental safety) as the subject of management in the field of ensuring the national environmental safety implements normative, organizational and control functions. The peculiarities of the implementation of these functions were characterized, which allowed to draw attention to the importance of observance of the principle of openness and transparency in the activities of the Cabinet of Ministers of Ukraine in relation to the activities of its structural divisions, whose subject matter is the implementation of state policy in the field of environmental safety. The system of central bodies of executive power, which has the competence to ensure the national ecological security, includes ministries and other central executive bodies (services, agencies, inspections). Ministries provide for the formation and implementation of state policy on certain aspects of environmental safety.

SUMMARY

The article deals with description of the administrative and legal status of the subjects of management in the field of ensuring ecological safety of Ukraine. The directions of improvement of the activities of the Verkhovna Rada of Ukraine and its institutions are outlined, in particular by supplementing the norms of the current Constitution of Ukraine in terms of clearly defining the powers of the Parliament and the content of the national legislation on the field of environmental safety. The authority of the President of Ukraine as the subject of management in the field of ensuring environmental safety is described, which he personally implements through his legal status or through the subsidiary body of the Administration of the President of Ukraine or the National Security and Defense Council, which he heads. The powers of the Cabinet of Ministers of Ukraine and its structural subdivisions are considered and appropriate organizational and normative measures are proposed that will increase the openness and transparency of the activities of this higher executive

authority in relation to ensuring environmental safety. The main task of local state administrations and bodies of local self-government in the field of environmental safety is disclosed within its competence and in the interests of the population of the respective administrative-territorial unit.

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