

МІЖНАРОДНЕ ПРАВО

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PROBLEMS OF IMPLEMENTATION OF PRINCIPLES OF THE WATER FRAMEWORK DIRECTIVE TO THE UKRAINIAN LEGISLATION

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Abstract. *Comparative legal analysis of the legislation of the European Union and Ukraine in the field of protection and water management was carried out. Basic principles, mechanisms and problematic aspects of implementation of the EU Water Framework Directive into the legislation of Ukraine were studied.*

Key words: *legislation, the EU, the Water Framework Directive, implementation, protection of water resources.*

Modern water management and environmental problems have not only national, but also international significance, became one of the main factors of national security of Ukraine. Environmentally unbalanced economic activities that use significant water resources for the needs of the production sector and cause water pollution, artificial alteration of natural regime of water objects led to degradation processes that began to prevail over self-renewable and self-cleaning ability of water systems. Introduction of provisions of the Water Framework Directive in Ukraine can make the management of water resources more efficient and to achieve «good water status» for all water.

The main purpose of this article is to analyze provisions of the EU Water Framework Directive and problematic aspects of its implementation into the legislation of Ukraine.

Ukrainian scientists such as A. Andursevych, V. Vovk, S. Kravchenko, N. Malysheva, M. Mykiyevych, Y. Shemshuchenko and others made a comparative legal analysis of the environmental policy of the European Union and Ukraine. But problems of implementation of the EU Water Framework Directive to the Ukrainian legislation were not investigated.

According to the Action plan for the implementation of the Association Agreement between Ukraine, on the one hand, and the European Union and

the European Atomic Energy Community and their Member States, on the other hand, State Water Resources Agency of Ukraine is responsible for implementation of the Directive № 2006/60/EC. The Water Framework Directive is a systemic document which solves a number of tasks in the field of water resources management in order to ensure «good» ecological status of each water object. The purpose of this Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater [1]. As in Ukraine, for water resources management is used basin approach. The basic structural unit in respect of which environmental goals are established is the «water body».

Ukrainian legislation in the sphere of water relations is also characterized by the presence of a codified legal act, namely the Water Code of Ukraine, which is one of the key documents in this area. In addition a number of national programs in water sector were adopted: National Program of Environmental Rehabilitation of the Dnieper River Basin and Improvement of the Quality of Drinking Water, approved by the Decision of the Verkhovna Rada of Ukraine, dated 27.02.1997, 123/97-VR; Protocol on Water and Health, Ratified by the Law of Ukraine, dated 09.07.2003 № 1066; The Law of Ukraine on the Strategy of National Environmental Policy until 2020.

Ukraine's legislation partly complies with the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy. The main bodies responsible for the implementation of water policy in Ukraine are Ministry of Ecology and Natural Resources of Ukraine and State Water Resources Agency of Ukraine. One of the crucial principles in this area – the principle of river basin management is enshrined in the Water Code of Ukraine and some other legislative acts. Water Code of Ukraine states that management of water resources should be based on the basin principle, but there is no clear strategy for implementation of this principle in the form of a plan with defined deadlines.

Ukraine is actively involved in the implementation of the basin principle in the process of cooperation with other states in the region. Law of Ukraine «On Fundamentals (Strategy) of the State Environmental Policy of Ukraine till 2020» of 21 December 2010 № 2818-VI foresees reforming of public administration in the field of protection and rational use of water by implementation of integrated water management on basin principle by 2015. In the plans of the Cabinet of Ministers of Ukraine is preparation of the draft Law of Ukraine on amendments to the Water Code of Ukraine within 10 years after the entry into force of the Association Agreement Council for Adaptation of Ukraine to the EU legislation. The bodies responsible for the elaboration of the amendments are Ministry of Ecology and Natural Resources of Ukraine and State Water Resources Agency of Ukraine.

In Ukraine the transition from the administrative-territorial to basin water management needs improvement of legislation primarily in terms of establishment of law aimed at practical implementation of integrated water management by basin principle, such as the definition of key terms [2, p. 486], hydrographic and water

management division of the territory of Ukraine, credentials of the state administration and local government and so on [3, p. 258].

In the Water Framework Directive a thorough description of the monitoring of water resources that should be done is also given [4, p. 259]. Ukrainian Water Code does not prescribe how the process should be carried out [5, p. 12]. Thus, Ukraine should improve legislative regulation of water monitoring on the model of the European Union [6, p. 84]. At the same time the main problem of implementation of the principles of the Water Framework Directive in Ukraine – is the need of transition to European principles of water management, which should involve not just changes to the legislation of Ukraine, but also requires a change of methods of water management and monitoring of water quality [1]. In contrast to the current System of monitoring of water resources in Ukraine, the Water Framework Directive applies the principle of multi-level monitoring which varies significantly by objectives and includes surveillance, operational and research investigative monitoring [7, p. 8].

The main reason for failure to comply with primary environmental protection measures is the underfunding of budget programs. Thus, in 2012 – 2014 years, when needed funds for environmental measures under the state target programs were in the amount of 1,384,3 million UAH, in the state budget expenditures in the amount of 634 million UAH were envisaged, and in fact 366.1 million UAH, i.e. 26 % of the needs were highlighted [8].

Another significant problem in Ukraine is that the system of river financing is imperfect: the funds obtained from water users and polluters at the local level are accumulated in the center and minimum resources are returned to the basin departments, which reduces their financial possibilities.

Conclusions. Ukraine's legislation partly complies with the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy. At the same time in Ukraine the following measures should be taken in order to adapt Ukrainian legislation to the Water Framework Directive: inclusion in the Water Code of Ukraine provisions on river basin management plans which should comply with article 11 of the Directive; development of river basin management plans; development of the system of water-related issues monitoring; development and fixing in the legal framework assessment criteria of the river basin; adoption and implementation of provisions of the EU Water Framework Directive concerning public information and consultation. Perspective area of future research is to develop mechanisms for implementation of the EU Water Framework Directive in practice.

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ПРОБЛЕМИ ІМПЛЕМЕНТАЦІЇ ПРИНЦИПІВ ВОДНОЇ РАМКОВОЇ ДИРЕКТИВИ ЄС У ЗАКОНОДАВСТВО УКРАЇНИ

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Анотація. Здійснено порівняльно-правовий аналіз законодавства Європейського Союзу та України у сфері захисту й управління водними ресурсами. Досліджено основні засади, механізми та проблемні моменти імплементації Водної Рамкової Директиви ЄС у законодавство України.

Ключові слова: законодавство, ЄС, Водна Рамкова Директива, імплементація, захист водних ресурсів.

ПРОБЛЕМЫ ИМПЛЕМЕНТАЦИИ ПРИНЦИПОВ ВОДНОЙ РАМОЧНОЙ ДИРЕКТИВЫ ЕС В ЗАКОНОДАТЕЛЬНОСТЬ УКРАИНЫ

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Аннотация. Осуществлен сравнительно-правовой анализ законодательства Европейского Союза и Украины в сфере защиты и управления водными ресурсами. Исследованы основные принципы, механизмы и проблемные моменты имплементации Водной Рамочной Директивы ЕС в законодательство Украины.

Ключевые слова: законодательство, ЕС, Водная Рамочная Директива, имплементация, защита водных ресурсов.