

SEPARATE LEGAL COVERAGE ASPECTS OF ECOLOGICAL SECURITY ON TRANSPORT

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The conditions of Ukrainian ecological legislation in the sphere of implementation of ecologically dangerous activities on transport are being researched. The main types of harmful transport influence on environment and some means of legal coverage of ecological security in this sphere are determined

Transport, natural environment, transport influence on environment, ecological security, legal aspects of ecological security coverage.

The signs of ecological risk for natural environment, people's life and health because of dangerous technogenic influence, that became one of the world community's main problems for today, had caused the necessity of implementation of their prevention new mechanisms, and also liquidation and rehabilitation measures in case of negative consequences appearance resulted by ecologically dangerous activities. The main role in this problem solving issue is being played by the adoption of fundamental legal act, that could regulate the whole complex of national public affairs in the sphere of ecological security, in the basis of which people's and citizen's right for secure natural environment, other ecological rights, that should be guaranteed by special legal mechanism with the system of corresponding legal measures, are proposed to be laid.

This mechanism's implementation have to raise the quality of state natural environment on the basis of internal legal regulation and international cooperation in the interests of present and future generations by observing the demands of chemical, physical, biological influence limitation of economical activities upon it.

The negative influence on environmental condition is traditionally being connected to the conception of ecologically dangerous activities, that are not defined by the legislation. At the same time, it could be correlated with definition of dangerous activities, that according to UN Convention on transborder influence of industrial accidents of March 17, 1992 is defined as any activities, during which one or more dangerous substances are present or could be present in equal quantities or exceed the limits,

determined by this convention, and, in consequence of accident, could cause the transborder influence.

According to such approach the transport also falls under the definition of ecologically dangerous activities. Even transport itself is an aggregate of mechanical means of transportation, industrial-technological complex, organizations and enterprises, intended for covering the needs of economical production and country's population in transportation at internal and international communication levels and providing other transportation services to all consumers [6], but taking into consideration that movable means of transport (automobiles, locomotives, sea and river vessels), that are using different types of oil products as fuel, and also stationary logistical objects (petrol depots, waste waters from automobile and their units washing, fumes of different harmful substances, acids, materials, that are used in technological processes of automobile repair or being transported with its help, transport, as a branch of national economy is recognized to be one of the most environmental contaminant [12].

It is considered that, annually, thousands of people are dying because of automobile transport exhaust fumes (for example, in Great Britain, according to calculations, 11 000), while, losses, caused to natural environment, are comprising billions of dollars [1, p. 135].

Railway transport of Ukraine utilizes appr. 170 mln cubic meters of water annually. About 50 percent of water is used for cold water needs, irretrievable losses of water makes up more than 40 percent. Annually, the railway throws down in sewerage systems more than 20 000 tons of contaminating substances, 50 percent of which without purification. More than half of the whole amount of river transport air polluting emissions falls to navigable vehicles and autotransport engines' burnt exhaust fumes – around 500 tons annually for every big river port or traffic center. Sea transport pollutes sea with food products waste, trash, oil and oil products, that considerably worsen ecological sea condition, particularly in near port areas [12].

Aviation also significantly harms to environment. As far back as XX century middle 70-th aviation wasn't related to air contaminants. At the same time, the situation has changed with its development pace increasing. The functioning of one airliner engines results in emissions to the atmosphere more than 76,5 tons of carbon fuel combustion gases, first of all carbon dioxide [3, p. 84].

Physical influence of transport that shows itself in the form of noise and/or vibration influence on natural environment and people's life and health also is worth separate attention.

Hazardous cargo transportations also couldn't be taken no notice of, because they are connected to increased danger comparing to ordinary cargo transportation. In case if vehicle, carrying any hazardous cargo, gets in traffic accident, consequences, as a rule, could be more painful, because the risk of people's deaths and diseases, natural environment

contamination, traffic centers, historical monuments and recreational facilities damaging increases. The effect of hazardous substances, being transported by vehicles, on natural environment could cause irreversible changes in it and even some flora and fauna representatives' deaths.

The majority of countries already have the experience in the sphere of applying fighting measures against transport branch influence on natural environment and people's life and health. Since transport, on average, is one of the biggest manmade Nox and VOC emissions sources and since it is foreseen that their emissions will increase because of growing vehicles quantity (as a rule automobile), measures in the emissions and dumping's control sphere are gaining even more significance. This study also contains information about countries' experience (first of all Ukraine) concerning ecological security ensuring in transport branch, which, in our opinion, could be used for complex international legal act drafting.

Legislation, including ukrainian one, also made it's way to recognizing dangerous activities on transport through the presence in their exercising hazardous substances, therefore establishing of guidelines that should be adhered to by enterprises, institutions and organizations, that are engaged in 1) engineering, 2) production, 3) exploitation, 4) cars, planes, vessels, other vehicles, installations maintenance and 5) fuel production and supplying are the main ecological security ensuring demands. Within such obligations' fulfillment, subjects, engaged in activities on transport, must: firstly, develop and carry out complex of measures concerning decreasing of toxicity and neutralizing of harmful substances; secondly, proceed to less toxic types of energy and fuel; thirdly, adhere to vehicles exploitation procedures; fourthly, exercise other measures, aimed to prevention and decreasing of contaminating substances emissions and dumping to natural environment; fifthly, keep to established levels of physical impacts [5].

Ecologically dangerous activities on transport have to be defined in legislation by special sphere of legal regulation, that is covered by system of interbranch legal acts, establishing measures of ecological demands ensuring:

1) regulation and standardization in the sphere of ecological security on transport and other mobile means and installations. Such means defined by the Law of Ukraine «About preservation of natural environment» of June 25, 1991 in article 31, where establishing of obligatory norms, regulations, demands concerning the preservation of natural environment, usage of natural resources and ensuring of ecological security defined as the aim of ecological standardization and ecological regulation. Article 4 of the Law of Ukraine «About preservation of atmospheric air» of October 16, 1992 (in the Law edition of June 21, 2001) contains the same clause [6], according to which ecological standardization and regulation in atmospheric air preservation sphere is being conducted with the aim of establishing the complex of obligatory norms, regulations, demands concerning preservation of atmospheric air from contamination, harmful

influence of physical and biological factors and ecological security ensuring. The legislation set up the prohibition (article 56 of the Law of Ukraine «About preservation of natural environment», article 19 «About preservation of atmospheric air») concerning production and exploitation of transport and other mobile means and installations, emissions and dumping's content of which exceeds established standards, and also responsibility of transport organizations heads and vehicles owners for compliance with maximum permissible emissions and dumping of contaminating substances and maximum permissible impacts on natural environment, established for corresponding type of transport, is set up.

2) *ecological expertise of projects and ecologically dangerous types of activities*. According to section VI of the Law of Ukraine «About preservation of natural environment» and the Law of Ukraine «About ecological expertise» of February 9, 1995 [8], conducting ecological expertise of legislative and other legal acts` drafts, pre-project and project materials, new technics introduction documentation, including transport one, technologies, materials, substances, production, realization of which could lead to violation of ecological standards, negative influence on natural environment condition, is ponderable measure of ecological (and transport one as it`s component) security ensuring.

3) *ecological insurance*. According to article 49 of the Law of Ukraine «About preservation of natural environment» requirements, in Ukraine voluntary and compulsory state and other types of insurance of citizens and their property, property and income of enterprises, institutions and organizations in case of harm, caused by natural environment contamination and worsening of natural resources quality, is being exercised. According to article 7 of the Law of Ukraine «About insurance» in edition of October 4, 2001 [9], insurance of management subjects` civil liability for harm, that could be caused by fire and accidents on objects of increased danger, including fire-explosively-dangerous objects and those ones, on which economical activity could cause accidents of ecological and sanitary-epidemiological nature, and also insurance of liability of exporter and person, responsible for utilization (removing) hazardous waste, concerning compensation of harm, that could be caused to human health, property and natural environment during transborder transportation and utilization (removing) of hazardous waste etc., belong, in particular, to types of compulsory insurance, which also cover transport branch.

4) *ecologically dangerous activities licensing*. Licensing in transport branch plays an important role, because it regulates relations concerning utilization of natural resources for these needs, in particular, for conducting diversion of contaminating substances` emissions and dumping to natural environment by mobile sources. General requirements for licensing exercising in transport sphere are pointed out in article 3 of the Law of Ukraine «About transport», according to which licensing of separate types of activities in transport sphere is conducted, in particular, with the aim of

natural environment preservation from influence of transport. Special requirements concerning licensing types of activities, that pose a danger to environment, are also established by regulations of legislation on natural resources. Thus, for example, according to article 49 of Water code of Ukraine of June 6, 1995 [10], special consumptive use is being exercised on the basis of permission, in which water intake, usage and contaminating substances throw down limits are obligatory defined, expiration date of such permission is also pointed out. Activities connected to atmospheric air usage are also subject to compulsory licensing. According to article 11 of the Law of Ukraine «About preservation of atmospheric air», only after receiving of corresponding permission, subjects of economic activities receive the right to exercise dumping of contaminating substances in atmospheric air (but the regulation covers only stationary sources);

5) state registration and monitoring of objects, that influence harmfully natural environment condition. According to article 24 of the Law of Ukraine «About preservation of natural environment», objects, that influence harmfully or could influence natural environment condition, types and quantity of harmful substances, that get to natural environment, types and proportions of physical and biological impacts on it are subject to state registration.

Enterprises, institutions and organizations, including those of transport branch, have to conduct initial registration in the sphere of natural environment preservation and on free of charge basis forward corresponding information to bodies, that conduct state registration in this sphere.

According to article 22 of above mentioned Law and the Resolution of the Cabinet of Ministers of Ukraine of March 30, 1998 «About approval of Regulations about the state system of environmental monitoring» the state monitoring system of natural environment is being settled, with the aim of ensuring collection, processing, and analysis of information about natural environment condition, forecasting of its changes and development of scientifically based recommendations for making effective managerial decisions. Supervision for the condition of natural environment, level of its contamination is being conducted by specially authorized state central body of executive power for the issues of ecology and natural resources, other specially authorized state bodies, and also enterprises, institutions, organizations, whose activities result or could result to worsening of natural environment condition. Such enterprises, institutions and organizations have to forward on free of charge basis to corresponding state bodies analytical materials of own observations. Transport ones are also belong this list of subjects;

6) informing about condition of natural environment, including while conducting ecologically dangerous activities. According to article **25** of the Law of Ukraine «About preservation of natural environment» one of

information's types about condition of natural environment, which must be compulsory forwarded to special state bodies, is information about sources, factors, materials, substances, production, energy, physical factors (noise, vibration, electromagnetic radiation, vibration), which influence or could influence on condition of natural environment and people's health. Such type of information also concerns ecologically dangerous activities on transport. Part 1 of article 25-1 of the Law sets up obligation of enterprises, institutions and organizations (including ones of transport branch), whose activities could influence negatively or do influence on the condition of natural environment, people's life and health, to inform systematically the population through media about condition of natural environment, dynamics of its changes, sources of contamination, location of waste or other changes of natural environment and nature of ecological factors that influence on people's health; to inform immediately about emergency ecological situations; to pass the information, received as a result of environment's monitoring, by information communication channels to bodies, authorized to make decisions concerning the received information; to provide free access to ecological information, which is not state secret and being contained in lists, archives and other sources;

7) *economical mechanism of ecological security ensuring*. The essence of economical mechanism, that ensures preservation of natural environment and people's life and health, lies in applying the methods of social-economic influence on legal entities and natural persons, whose activities have negative impact on environment, with the aim to force them to fulfill legislative requirements about preservation of natural environment. Ponderable place in economical mechanism's system of ecological security ensuring is being occupied by legal regulation of taxes for special utilization of natural resources (article 43 of the Law of Ukraine «About preservation of natural environment»); taxes for natural environment contaminating (article 44) and taxes for worsening of natural resources' quality (article 45). In particular, according to the Resolution of the Cabinet of Ministers of Ukraine of March 1, 1999 About approval of the Procedure of setting tax's standards for natural environment contaminating and excising of this tax, tax for natural environment contaminating is collected for emissions of contaminating substances to atmospheric air, including those made by mobile sources of contamination, for dumping of contaminating substances directly to water objects and allocation of waste (p. 2). Besides, stimulation of efficient natural resources usage, preservation of natural environment is being done, in particular, by providing privileges in taxation to enterprises, institutions, organizations and citizens (including those of transport branch), in case of realization of efficient natural resources usage and preservation of natural environment measures by them, processing transition for low-

wasted and energy-efficient technologies, organization of production and introducing in it purifying equipment and hardware for utilization and neutralization of waste, and also devices of control for natural environment condition and sources of contamination substances emissions and dumping, exercising other measures, aimed to improvement of natural environment preservation.

8) *avowal of increased danger objects` security*. In case, if ecologically danger activities on transport connected with usage, manufacturing, processing, storing or transportation one or some dangerous substances or their categories in quantity that equals or exceeds legally set up liminal masses, what poses real threat of emerging of emergency situation of technogenic and natural nature, transport fall under characters of increased danger object (for example, while transporting dangerous cargoes), and according to the Law of Ukraine «About the objects increased danger» of January 18, 2001 [11], subject of economic activities, in whose property or usage there is at least one object of increased danger, is obliged to develop *declaration of security*, which is the document, defining complex of measures, that are being undertaken by subject of economic activities with the aim to prevent accidents and ensuring the readiness for localization, liquidation of accidents and their consequences. Thus, upon requirements of International convention on protection of human life at sea of 1974, changed by following Protocol to it (SOLAS-74) and International convention on prevention of contamination from vessels of 1973, changed by Protocol to it of 1978 (MARPOL 73/78), concerning the information about cargo, the necessity of dangerous cargo declaration presence in case of it`s transportation is foreseen by the order of the Ministry of transport of Ukraine of December 14, 1998 № 497 «About approval of the Regulations on the procedure of preparing and forwarding the data about cargo for it`s secure sea transportation».

9) *ecological control for conducting activities*. Tasks of ecological control, according to article 34 of the Law of Ukraine «About preservation of natural environment» lie in ensuring of observing the legal requirements on preservation of natural environment by all state bodies, enterprises, institutions and organizations, independently of patterns of ownership and subordinacy, including ones on transport, and citizens;

10) *Responsibility for violations of legislation about preservation of natural environment while conducting ecologically dangerous activities on transport*. In case of violation of legal provisions about preservation of natural environment while conducting ecologically dangerous activities on transport, responsibility, foreseen by articles 68-70 of the Law of Ukraine «About preservation of natural environment», occurs.

Thus, concern about security of today's and future generations demands these issues to be consolidated in universal legal act – special Law. In this act the section, devoted to regulation of ecologically dangerous activities` conducting, in which the definition of concept of ecologically dangerous activities, their types, mechanism of ecological security ensuring in every ecologically dangerous sphere, which will be effective also for transport branch, is desired to be formulated.

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