

STATE CONTROL OVER THE USE OF PLANT PROTECTION PRODUCTS: STATE AND PERSPECTIVES OF ITS DEVELOPMENT

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The theoretical and practical aspects of the definition of notion of state control over the use of plant protection products are researched in the article. The analysis of the current legislation of the mentioned area has been done and proposals for its improvement have been made.

State control, plant protection products, legal regulation, the use of pesticides and agricultural chemicals.

Pesticides and agrochemicals are used to in order to protect plants for agricultural and other purposes, forest plantations, trees, shrubs, plants in greenhouses and plant products from diseases and pests. Agriculture in Ukraine is becoming more and more intensive, and therefore use of pesticides and agrochemicals is being increased, so there is need for effective system of state control. State control over state registration, production, procurement, transportation, storage, trading and safe for human health and the environment use of pesticides and agrochemicals is a guarantee of compliance with legislation in this area. Since pesticides and agrochemicals are toxic substances and improper use can result in serious consequences, the problem of effective implementation of state control in this area is difficult to overestimate.

The problem of state control has been investigated in the works of V.Averyanov, O.Andriyko, N.Nyzhnyk, S.Dubenko, V.Horsheneva, I.Shahova and other legal scholars.

The aim of the research is the fact that based on the analysis of current legislation which governs the legal relationship related to state registration, production, procurement, transportation, storage, trading and safe for human health and the environment use of pesticides and agrochemicals, propose ways of its improvement. The control is a complex

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and multifaceted phenomenon, and therefore one should initially find out the definition of the concept, its nature, functions and origins.

The term «control» has been borrowed from French. French word «controle» is the result of simplifying more ancient «contrerole», which can literally be translated as reverse, opposite double counting. It is formed with the prefix «contre», which means «against» and the noun «role», which means «roster », «list », «registry» [1, p.558]. In this context, the term «control » should be interpreted as inspection and supervision with the purpose to check something and counteract something undesirable for detection, prevention and suppression of illegal behavior [2, p.11]

The Great Explanatory Dictionary of the Ukrainian language defines the term «control» as follows – «checking compliance with the requirements of a controlling object» [3, c. 569].

State control is defined as a form implementation of the state government which enforces laws and other legal acts which have been issued by the bodies of state [3, p. 286].

According to O. Andiyko, the task of control as function of management is to test the general areas of administration, making it legally within defined limits, coordination with other functions of state [2, p. 5]

V.Horshenev and I.Shahov considered that control is a specific form of activity of a state body rather than a principle of activity [4, p. 18]. They believed that during the process of control occurs blocking the deviations activity of the subject of management from management program which have been given to the subject and in case of detection of anomalies – bringing management system in steady state using all social regulations [4, p. 23].

During exercising control not only observance of legal norms and special rules are observed, monitored, analyzed and verified but also activity of relevant bodies, officials, within limits of their competence feasibility and effectiveness this activity is checked [5, p. 432].

Traditionally, the state control is considered as a function of government.

The Law of Ukraine «On Pesticides and Agrochemicals» 02.03.1995 № 86/95 is the main framework document that governs the legal relations connected with the state registration, production, purchase, transportation, storage, trade and safe for human health and environment use of pesticides and agrochemicals, defines the rights and obligations of enterprises, institutions, organizations and individuals, and powers of state

bodies of executive power and officials in this area (Preamble of the Act) [6].

Pesticides and Agrochemicals must meet the following requirements:

- high biological effectiveness concerning the designated purpose;;
- safety for human health and the environment on condition that the regulations of their use are followed;
- compliance with state standards, health standards and other regulations (Chapter 2 Article 4) [6].

The state tests of pesticides and agrochemicals of domestic and foreign production are conducted with the aim to make biological, toxicological and hygienic and environmental assessment and the development of regulations of their use (Chapter 2 Article 5).

According to the Law of Ukraine «On Pesticides and Agrochemicals» 02.03.1995 № 86/95, regulation of use is a set of requirements the application of pesticides and agrochemicals. The use of pesticides and agrochemicals is only possible as long as the above mentioned regulations are complied [6].

All form of pesticides and agrochemicals are subjected to state registration, which is carried out by specially authorized central body of executive power on issues of environmental protection on a paid basis in the manner and amount established by the Cabinet of Ministers of Ukraine, on the basis of positive results of the tests and materials of research. Mandatory condition for state registration of pesticides and agrochemicals is the availability of relevant documentation concerning their safe use, including the endorsement of the state sanitary and epidemiological expertise, methods of determination residual amounts of pesticides and agrochemicals in agricultural products, feed, food, soil, water, air. Pesticides and Agrochemicals can be registered for up to ten years. The specially authorized central body of executive power on issues of environmental protection can establish a full or temporary ban on the use of pesticides and agrochemicals in the case of new, previously unknown information about their dangers. After expiration the term of registration of pesticides and agrochemicals, their re-registration on paid basis is performed (Chapter 2 Article 7). Mass production, procurement and operation of technical facilities of pesticides and agrochemicals are only permitted after their state registration (Section 2 Article 8). Importation to the territory Ukraine of registered pesticides and agrochemicals in quantities necessary for personal use is permitted (Chapter 3 Article 9). Importation to the territory Ukraine of unregistered pesticides and

agrochemicals is regulated by the Resolution of Cabinet of Ministers of Ukraine № 288 «On approval of granting permission on the import of unregistered pesticides and agrochemicals that are used for state testing and research, as well as processed seed (planting) material» dated 4.03.1996. In case of importation of unregistered preparations permission must be granted by The Ministry of Environment provided it has been approved by The Ministry of Health of Ukraine. In case of import of seed (planting) of material which have been processed with unregistered drugs, permission must be granted by The Ministry of Health and The Ministry of Agrarian Policy and number of the drugs must be mentioned (paragraph 3 of the Resolution) [7].

With regard to economic activity with the use of pesticides and agrochemicals, the Law of Ukraine «On Pesticides and Agrochemicals» 02.03.1995 № 86/95, provides the following requirements: licensing (production, trade), access (ID) of the person for right to work with pesticides and agrochemicals (transportation, storage, use, disposal, destruction and disposal); insurance of pesticide use (transport, application). Sale of pesticides and agrochemicals to the population is carried out if they are packed finely and with obligatory presence of instructions for their safe use (Chapter 3 Article 9) [6].

According to the Resolution № 2 of Vice Chief State Sanitary Doctor of Ukraine dated 28.08.1998, the degree of hazard of pesticides are divided into four classes:

- I – extremely hazardous;
- II – hazardous;
- III – moderately hazardous;
- IV – low-hazard.

The Resolution states that the classification extends to the active ingredients and formulations of pesticides (emulsion concentrates, granules, microcapsules, solutions, mixtures, etc.) but it does not apply to microbiological pesticides (complex biological systems, bacteria, microorganisms) [8].

Pesticide chemicals of the first class of hazard are not recommended for wide use in agriculture, their limited use is permitted only if physical form, terms and use of technical means exclude harmful effects of these compounds on the body of workers, public and environment. As an exception, limited use of drugs of the first class of hazard is possible only in some cases emergency needs to destroy of dangerous pests of crops or contaminator of decesses. This exception does not apply to substances

that have carcinogenic and/or mutagen properties and their applications are prohibited (paragraph 2.1 of The Resolution) [8].

Practical use of drugs of first and second classes of hazard is carried out on condition that there is constant control of the State Sanitary and Epidemiological Service (point 2.2. of The Resolution). Pesticide chemicals third and fourth classes of hazard may be used without restriction provided that regulations established by the hygienic order are complied [8].

All pesticides must be applied on condition that

All pesticides must be applied on condition that there is mandatory compliance with State Health Regulations № 8.8.1.2.001-98 «Transport, storage and use of pesticides in the national economy» which have been adopted by The Resolution number 1 of The Chief State Sanitary Doctor of Ukraine dated 03.08.1998, the (paragraph 2.3 of The Resolution) [9].

The state accounting of use of pesticide and agrochemicals is being carried out. In accordance with The Resolution of The Cabinet of Ministers Ukraine № 881 «On approval of state registration of the availability and usage of pesticides and agrochemicals» on November 2, 1995, the account of the availability and usage of pesticides and agrochemicals is conducted by enterprises, institutions and organizations in the income and expenditure books (magazines), where the following are listed: name of pesticide, agrochemicals, date of receipt and the date of use or sale, the name of the document, by which pesticides or agrochemicals have been received or used or implemented weight of available pesticides, agrochemicals (pounds, tons) residue pesticide, agrochemicals after use realization (pounds, tons) (paragraph 2 of The Resolution). At the end of the year owners conduct inventory of pesticides and agrochemicals with the addition of an act of the presence of residues (paragraph 3 of The Resolution). Enterprises, institutions, organizations submit statistical reports on the availability and usage of pesticides and agrochemicals approved by the State Statistics Service forms until 10 of January of next year (paragraph 4 of the Resolution) [10].

According to state sanitary regulations SSR 8.8.1.2.001-98, requirements for the transport of pesticides are set since they are dangerous loads. As loads on the degree of danger of pesticides they are classified as highly inflammable liquids, flammable substances and materials, substances that are oxidized and organic peroxides, poisonous (toxic) substances, acrid and corrosive substances (paragraph 4.1.2 of the Resolution). Dangerous loads of each class are divided into the following groups: a high degree of hazard (packing group 1) - loads in steel drums,

barrels, special containers, medium hazard (packing group 2) loads in containers made of polymeric materials, wooden boxes, a low degree of hazard (packing group 3) - goods in paper bags, cardboard boxes (paragraph 4.1.3 of the Resolution). The aforementioned dangerous loads must keep in themselves signs of danger that are applied to the container and to all kinds of vehicles. Signs of danger must meet the requirements of State Standard 19433-88 «Dangerous loads. Classification and labeling» (paragraph 4.1.4). Pesticides are transported only in specially designated for these purpose vehicles (railcars, marine and river vessels, aircraft, cars, etc.). Transportation of pesticides together with other goods is prohibited (paragraph 4.1.5) [9].

Storage of pesticides is also regulated by this Resolution. Storage of pesticides is permitted only in specially designated for this warehouses which meet the requirements of Construction Norms and Rules 11-108-78 «Warehouses of Dry Mineral Fertilizer and Crop Protection Chemicals» and «Engineering Standards of Warehouses of Solid Mineral Fertilizers and Pesticides for Collective Farms, State Sanitary Rules 8.8.1.2.001-98, for State Farms and for Points of Application of Chemicals» (1981) (paragraph 5.1.1. of the Resolution). Basic warehouses include pre-rail, preroad, district, inter-farm; consumables include storage facilities, livestock and poultry farms and other organizations (paragraph 5.1.3 of the Resolution). Inter - farm points of application of chemicals (agricultural chemical complexes), including warehouses for pesticides, serve 3-5 farms and they are equipped in accordance with the requirements for basic warehouses (paragraph 5.1.4. of the Resolution). Width of sanitary and protective zones for basic warehouses is set according to their capacity: up to 20 tons – 200 meters, 21–50 tons – 300 meters, 51–100 tons – 400 meters, 101–300 tons – 500 meters, 301-400 tons – 600 meters, 401–500 tons – 700 meters, 500 tons – 1000 meters. During storage in these warehouses another items except pesticides or mineral fertilizers (in separate buildings) sanitary and protective zones are established based on the amount of pesticides that are stored. Width of sanitary protective zones for consumable warehouses must be at least 200 meters (paragraph 5.1.6. of The Resolution).

According to The Resolution of The Cabinet of Ministers of Ukraine № 354 «On Approval of the Procedure of Removal, Recovery, Destruction and Disposal of Unserviceable and Prohibited Pesticides and Agrochemicals and their Containers» dated 27.03.1996, unsuitable or forbidden for use pesticides and agrochemicals and their container are

subjected to removal, recycling, destruction and disposal if they have been recognized as such based on results of tests which have been made by organizations and institutions that are under the control of the Ministry of Health and the relevant laboratories of State Veterinary Phyto Service (paragraph 1 of The Resolution). Determination of assortment of pesticides and chemicals that must be taken to destruction and disposal must be conducted based on the results of the inventory and in accordance with the laws and mandatory laboratory quality control of pesticides and agrochemicals with expired guaranteeing period of storage, as well as altered merchantability and physical properties (paragraph 2 of The Resolution). Pesticides and agrochemicals in the form of pastes, powders which have been soured or dried out and may not be used for other purposes, and emulsion and water-soluble concentrates of insoluble precipitate are subjected to removal, recycling destruction and disposal (paragraph 2 of The Resolution) [11].

Recycling, destruction and disposal of unserviceable of prohibited pesticides and agrochemicals and their containers are performed by enterprises where they have been made and by other enterprises that have the license of the Ministry of Environment to conduct operations in the field of handling of dangerous waste, the positive conclusion of the state sanitary-epidemiological expertise on a contractual basis (paragraph 3 of The Resolution) [11].

Having analyzed the legislative framework the application of plant protection products, we consider that there is a need for certain improvements. The Law of Ukraine «On Pesticides and Agrochemicals» 02.03.1995 № 86/95 should be amended; namely, the maximum period of registration of pesticides and agrochemicals should be reduced to five years. After expiration of this term, it is necessary to make recurrent researches of pesticides and agrochemicals, and after the implementation of these measures, the state registration should be continued to 10 years. Since during this period new better and safer preparations can be developed, and therefore fair competition between producers will be stimulated and products of poor quality will be ousted from the market.

Forgery of pesticides and agrochemicals is also a major problem because they are dangerous for human health and for the the state of plants and soil, and hence there is a threat to environmental security. Some changes should be introduced to the Law of Ukraine «On Pesticides and Agrochemicals» dated 02.03.1995 № 86/95 The Law of Ukraine «On Pesticides and Agrochemicals» dated 02.03.1995 № 86/95 change, noting

that counterfeit pesticides and agrochemicals are subjected to immediate destruction, since the lack of this provision may result in abuses with aim to earn profits from the sale of counterfeit. The issue the use of pesticides and agrochemicals is believed to be extremely important for the economy of Ukraine as well as for ensuring environmental safety, and therefore state control over this area should be strengthened.

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