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CLIMATE CHANGE AS A THREAT TO ENVIRONMENTAL SAFETY: INTERNATIONAL LEGAL REGULATION

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Abstract. The article is devoted to the study of international legal regulation of environmental safety with regard to climate change. It is established that indicated problem is common to the entire mankind and requires effective and advancing response and determines the need to replenish national legislation with international and European ecologico-legal models for regulation of environmental relations. It is analysed that modern development of legislation of Ukraine in the field of environmental safety should be carried out considering the processes of globalization. The conclusion is drawn that deepening of cooperation between the countries worldwide for overcoming the negative impact of climate change on mankind and environment as a whole assumes important significance.

Keywords: climate, environmental safety, international legal regulation, legal protection of atmospheric air, legal protection of ozone layer, international environmental law, environmental legislation of the European Union.

1. INTRODUCTION

The Law of Ukraine "On Main Principles (Strategy) of National Ecological Policy of Ukraine until 2020" dated December 21, 2010 [9] contains the main tasks for improving environmental situation and increasing the level of environmental safety. In particular, attention has been focused on fundamentals of the state policy to adapt to climate change, development and phased implementation of the national plan of actions on climate change mitigation and prevention of anthropogenic effect on climate change for the period up to year 2030 (Objective 2). For the purpose of implementation of international cooperation for environmental protection and ensuring environmental safety on appropriate level, the need to prevent global climate change and expand cooperation for avoidance of transboundary pollution of natural environment is determined (Cl. 4.12).

The above-mentioned provides for broad cooperation between different countries worldwide with respect to these problems to ensure proper level of environmental safety, prevention of threats and search for ways to overcome them, mitigation of risks due to climate change. To date, international community recognizes that climate change is a common concern for mankind, which determines the need for effective and advancing response based on the best available scientific knowledge.

According to Paris climate Agreement dated December 12, 2015 (city of Paris, France; ratified by the Law of Ukraine dated July 14, 2016) [10], adaptation to climate change is the global challenge that

appears before all at local, sub-national, national, regional and international levels, and is a key component and makes contribution to the long-term global response to climate change in order to protect people, means of subsistence and ecosystems (Cl. 2 Art. 7). In this regard, importance of international cooperation and support for efforts to adapt to climate change assumes importance (Cl. 6 Art. 7), and the need to prevent, minimize and resolve issues of losses and damages associated with adverse effects of climate change, including extreme weather events and phenomena, which slowly occur, as well as the role of sustainable development in reducing the risk of losses and damages, is determined (Cl. 1 Art. 8).

The aforementioned results in the necessity of scientific inquiries for solving the mentioned problems, for analysis and research of international legal documents in order to improve national legislation and improve cooperation between countries worldwide for prevention of the negative effects of climate change.

The legal problems concerning settlement of issues related to environmental safety in connection with climate change have become the subject of scientific inquiries by many scientists, including: V.I. Andreitseva, H.I. Baliuk, Iu.L. Vlasenko, T.H. Kovalchuk, M.V. Krasnova, Iu.A. Krasnova, N.R. Malysheva, E.V. Pozniak, K.A. Prokhorenko, R.V. Rybachek, O.V. Ilina, Iu.S. Shemshuchenko, O.A. Shompol, et al. However, despite significant number of publications herein and given the modern process of adaptation of national legislation to the laws of European Union, international legal approaches to formation of modern holistic legal models to ensure the environmental safety in connection with climate change requires for more in-depth study.

The purpose of this article is to study ecologico-legal relations with respect to peculiarities of ensuring environmental safety in connection with climate change and development of international legal cooperation in the field specified.

2. ANALYSIS AND DISCUSSION

To date, relations in the field of ensuring environmental safety in connection with climate change assume the more relevance prompting further development of their proper regulation. In particular, scientists unanimously call permanent and global climate changes to be one of the reasons of emergency environmental situations occurring both in Ukraine and in other countries worldwide. People must exert maximum efforts to halt and prevent the negative impact of their activities on environment. In this respect, legal regulation of relations concerning protection of climate as one of the main natural resources cannot be limited only to the national level, and should be ensured by international legal community.

It is established in Constitution of Ukraine [11] that applicable international treaties, consent to obligation of which is provided by the Supreme Council of Ukraine, constitutes a part of national legislation (Art. 9), that is prerequisite for broader involvement in national legislation of international regulations, including for settlement of ecologico-legal relations.

For example, most countries agreed that the Earth's climate change and its adverse effects are a common concern for mankind. The sense of worry about the fact that human activity resulted in a substantial increase of concentration of greenhouse gases in atmosphere, and that it may adversely affect natural ecosystems and mankind, was a prerequisite for signing of the United Nations Framework Convention on Climate Change dated May 09, 1992, (city of New York, USA; ratified by the Law of Ukraine dated October 29, 1996) [12]. It testifies decisiveness of international community to protect climate system for the benefit of present and future generations.

For this purpose, all parties agreed to promote and cooperate in carrying out scientific, technological, technical, socio-economic and other researches, systematic observations and creation of data banks related to climate system and intended for deepening of knowledge, as well as reducing or eliminating the uncertainties that remained about the causes, effects, extent, and timing of climate change and concerning economic and social consequences of various response strategies. The parties also undertake to promote and cooperate in full, open and prompt exchange of relevant scientific,

technological, technical, socio-economic and legal information related to climate system and climate change as well as to the economic and social consequences of various response strategies (Art. 4).

The necessity and importance of prevention of climate change is also confirmed by Kyoto Protocol to the above Convention dated December 11, 1997 (city of Kyoto, Japan; ratified by the Law of Ukraine dated February 4, 2004) [13]. While contributing to performance of the commitments to achieve sustainable development, the parties have signed up to cooperate in scientific and technological researches and promote maintenance and development of systematic observation complexes and accumulation of archival data for reduction of the uncertainties associated with climate system, adverse effects of climate change, as well as the economic and social consequences of various response strategies (Art. 10).

At the same time, provisions of the above mentioned Paris climate Agreement dated December 12, 2015 [10], which was adopted at XXI Conference of Parties of the United Nations Framework Convention on Climate Change, are especially relevant for us today. This Agreement, which strengthens implementation of the United Nations Framework Convention on Climate Change, including its purpose, is aimed at strengthening of global response to threat of climate change in the context of sustainable development and efforts to eradicate poverty, including by: containment of the growth of global average temperatures less than 2 C above pre-industrial levels and exerting efforts to limit temperature increase up to 1.5 C above pre-industrial levels recognizing that it will significantly reduce the risks and impacts of climate change; enhancing the ability to adapt to adverse effects of climate change, as well as promotion of resistance to climate change and low-carbonic development in a way that does not compromise food production; ensuring consistency in financial flows with low-carbonic and climate change-resistant development directions (Art. 2).

However, it is feared that indicated Agreement as the previous ones on climate protection will not have the expected result and performance. That is why it is important that all parties to this Agreement, as well as countries that have not yet joined it, realize the need and importance of implementation of and compliance with its provisions.

Climate protection is closely linked with the problem of ozone layer protection, which became the most important within environmental safety system. In particular, the state of ozone layer is affected by combination of factors, where results of anthropogenic activity occupy independent place. Scientists deem harmful emissions into atmosphere of contaminated air resulted from industrial and economic activities that have a big anthropogenic-destroying significance and natural disasters to be the main causes of negative changes in ozone layer. Deterioration of the state of ozone layer is associated with that millions of tons of various chemical compounds, polluting substances of organic origin, dust, salts of heavy metals are discharged in atmosphere [1, p. 4–5].

In this regard, the question of ozone layer protection is thrown into sharper relief before international community. For example, our state has acceded to Vienna Convention for the Protection of the Ozone Layer dated March 22, 1985 (city of Vienna, Austria; came into effect for Ukraine on September 22, 1988) [8]. As the potentially damaging impact of changes of ozone layer's status on human health and environment, as well as the need to conduct further researches and systematic observations to obtain additional scientific information on ozone layer and about the possible negative consequences of change in its status are realized, the need occurred for agreements on cooperation between the states so to understand and assess more deeply the impact of human activities on ozone layer and the effects of changing its condition to human health and environment.

In accordance with this Convention, parties undertake to promote implementation of and implement common or mutually complementary programs, systematic observations of ozone layer's status and other relevant parameters (Art. 3), including the need to take into account works and studies carried out both in international and national organizations, and, in particular, the World Plan of Actions Concerning Ozone Layer of the United Nations Environment Programme.

In Montreal Protocol on Substances That Deplete the Ozone Layer dated September 16, 1987, (city of Montreal, Canada; entered into force for Ukraine on January 01, 1989) [7] signed before Vienna Convention for the Protection of the Ozone Layer, the parties of this Convention decided to take into

account importance of promoting international cooperation, including researches, developments concerning regulation and reduction of emissions of substances that deplete ozone layer. In particular, the parties cooperate in accordance with their national laws, rules and practices taking into account the needs of developing countries, in order to promote, directly or through competent international authorities, advancement of researches, development and information exchange (Art. 9).

As noted above, the problem of climate protection is comprehensive, which determines the need to also consider questions concerning protection of atmospheric air, since climate is influenced by various factors leading to its changes. So, atmospheric air – a vital component of natural environment featuring a natural mixture of gases evolved during evolution of the Earth – is identified as one of natural resources, which is subject to special protection. Oxygen, which is necessary for existence of humans and other living organisms, is an important element of atmospheric air. Air envelope protects the Earth from harmful cosmic influences and conducts solar energy. "Resource ability" of atmospheric air is identified, *inter alia*, with possibility of its use in economy (for example, in energy sector), as well as air space for aviation and other needs [5, p. 42].

In this regard, according to environmental lawyers, such protection of atmospheric air to which the problem of global climate change is linked is one of the main tasks of international ecological safety [3, p. 181]. Other scientists point out that problem of fluctuations and climate change, which results from the natural processes caused by interaction between atmosphere, ocean, land surface and biota, as well as by influence of people's economic activity on climate, first of all emissions of greenhouse gases, such as carbon dioxide and methane, assumed a global significance [2, p. 229].

To date, relations in the field of atmospheric air protection from various types of pollution assume the more relevance prompting further development of their proper regulation. When solving modern complex environmental problems caused by increasing degradation of environment and irrational use of natural resources, the role of environmental policy and laws in the field of ensuring effective protection of atmospheric air [16, p. 3], which has a direct impact on regulation of climate protection.

It is stipulated in Law of Ukraine "On the Protection Atmospheric Air" as amended by the Law of Ukraine dated June 21, 2001 [14] that Ukraine takes part in international cooperation for atmospheric air protection in accordance with the laws of Ukraine. If international treaty of Ukraine, consent to obligation of which is provided by the Supreme Council of Ukraine, stipulates another provisions than those provided by this Act, provisions of international treaty shall apply. In this regard, international legal cooperation between Ukraine and countries worldwide, European Union countries concerning protection of atmospheric air against transboundary pollution, which differs significantly from other natural resources, because it is constantly in motion and is considered as international universal natural resource, becomes critical [17, p. 392].

For example, international relations for protection of atmospheric air against emissions of pollutants has been regulated by the Convention on Long-range Transboundary Air Pollution dated November 13, 1979 (city of Geneva, Switzerland; came into force for Ukraine on March 16, 1983) [7], which determines the general principles of cooperation between member states on combating air pollution, in particular in the field of exchange of information, advice, research work and monitoring by means of which the parties implement the strategy as a means to combat pollutants emissions. In this regard, according to the provisions of Art. 6 of this Convention, each party agrees to develop the best policy to combat air pollution.

At the same time, international legal regulation of relations in the field of atmospheric air protection is regulated not only by the said Convention, but also a number of Protocols hereto which significantly complement its content. First of all, it is Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP) dated September 28, 1984 (city of Geneva, Switzerland; came into force for Ukraine on January 28, 1988) [7], which approved the system of financing of this program given the positive results of its implementation and for its development. The said Protocol is aimed at limitation of emissions of heavy metals caused by anthropogenic activities subject to transboundary atmospheric transfer over long distances, and which, in all probability, can make a significant negative impact on human health or

environment. According to Art. 6 of the Protocol, this objective is achieved by encouraging parties to carry out researches, developments and cooperation in areas relating to the subject matter of the parties' agreement.

However, it should be noted that most Protocols to this Convention are not ratified or signed by Ukraine, so to date they are some types of models of legal regulation of atmosphere protection relations for our state. Current situation in national legislation requires for attention, since the issues that assumed further settlement in these protocols take place in Convention provisions. In particular, it is Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes adopted on November 18, 1991 (city of Geneva, Switzerland), Protocol on Further Reduction of Sulphur Emissions dated June 14, 1994 (city of Oslo, Norway), Protocol on Heavy Metals dated June 24, 1998 (city of Aarhus, Denmark), Protocol on Persistent Organic Pollutants dated June 24, 1998 (city of Aarhus, Denmark) and Protocol to Abate Acidification, Eutrophication and Ground-Level Ozone dated November 30, 1999 (city of Gothenburg, Sweden).

Thus, having ratified the Convention on Long-range Transboundary Air Pollution, Ukraine recognized the need to resolve issues stipulated in it. Our state undertakes to fully comply with the provisions of this international document, implement its norms that confirm feasibility of acceding to the above Protocols.

The provisions of sources of environmental laws of European Community in the study area are also relevant for our country to date resulting in the expedience of their consideration. In particular, it is stipulated in Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part (ratified by the Law of Ukraine dated September 16, 2014) [15] that its signatory parties shall develop and strengthen cooperation on environmental protection and, thus, contribute to achievement of the long-term goals of sustainable development and green economy. Such cooperation is aimed at conservation, protection, improvement and restoration of environmental quality in various areas, including on atmospheric air quality and climate protection (Articles 360–361).

For example, Regulation (EC) № 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete ozone layer [6], in Article 16, stipulates the licensing system regarding controlled substances, which includes the permit to export controlled substances in order to improve monitoring and control of trade and creation of conditions for exchange of information between the Parties.

The detailed measurements of the smallest solid particles for better understanding of impact of these particles and development of appropriate strategies in rural areas are noted in Directive № 2008/50/EC of the European Parliament and of the Council of 21 May, 2008 on ambient air quality and cleaner air for Europe [6]. Such measures should comply with the means envisaged by the Cooperation Programme for Monitoring and Evaluation of Long-Range Transfer of Pollutants in Europe founded by the Convention on Transboundary Air Pollution.

Therefore, by signing Ukraine-European Union Association Agreement, our state must take into account EU laws, including those concerning regulation of environmental relations. Particularly, pursuant to Annex XXX of Chapter 6 "Natural Environment" of the said Agreement, Ukraine undertakes to gradually bring its legislation, including on the quality of air, to legislation of the European Union in the prescribed time. The normative legal documents stipulated by this Agreement shall regulate relations for protection of atmospheric air, ozone layer and shall not allow worsening of their properties that contributes to protection of climate in general.

3. CONCLUSIONS

So, it is obvious today that modern European integration processes taking place in Ukraine require for implementation and recognition of international laws for regulation of relations in various spheres of public life, including environmental ones with respect to ensuring environmental safety, in particular, due to the threat of climate change. The modern development of ecologico-legal relations is

carried out in consideration of globalization. Therefore, epicenter of regulation of these relations increasingly transfers from local and regional to the global level and influence of international environmental laws on the national legal systems increases [4, p. 58].

Thus, improvement of national legislation must be carried out taking into account the European and international legal approaches that meet statutory environmental policy of Ukraine and stipulates the need for approximation of legislation of our country to legislation of the European Union. It will also enhance the abilities of our state to cope with and prevent natural disasters caused by climate change owing to the establishment of effective cooperation with European Community countries and the other member states within international cooperation.

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Стаття присвячена дослідженню міжнародно-правового регулювання відносин у сфері забезпечення екологічної безпеки у зв'язку зі зміною клімату. Визначено, що зазначена проблема є спільною для усього людства, яка потребує ефективного й поступального реагування та обумовлює необхідність поповнювати національне законодавство міжнародними і європейськими еколого-правовими моделями щодо регулювання екологічних правовідносин. Проаналізовано, що сучасний розвиток законодавства України в сфері забезпечення екологічної безпеки повинен здійснюватися у напрямку врахування глобалізаційних процесів. Зроблено висновок про те, що важливого значення набуває поглиблення співробітництва країн світу щодо подолання негативного впливу зміни клімату на людство і довкілля в цілому.

Ключові слова: клімат, екологічна безпека, міжнародно-правове регулювання, правова охорона атмосферного повітря, правова охорона озонового шару, міжнародне екологічне право, екологічне законодавство Європейського Союзу.