

ON THE ISSUE OF ENVIRONMENTAL SAFETY AND LEGAL BASIS OF ENVIRONMENTAL CONTROL IN THE REPUBLIC OF LITHUANIA

ДО ПИТАННЯ ЕКОЛОГІЧНОЇ БЕЗПЕКИ ТА ПРАВОВИХ ЗАСАД ЕКОЛОГІЧНОГО КОНТРОЛЮ В ЛИТОВСЬКІЙ РЕСПУБЛІЦІ

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The article examines the range of legal relations related to the issue of environmental safety, namely, the legal framework for environmental control, which has a significant impact on the environmental safety of the State as a whole, using the example of the Republic of Lithuania as a case study. The study examines the legal framework for regulating environmental control at the municipal, regional, and national levels, as well as the relevant powers and competencies of state authorities and local self-government bodies in the Republic of Lithuania. This study was carried out with due regard to the basic national and international legal acts, as well as EU acts. The author analyzes the provisions of the fundamental policies of the European Community on environmental protection and improvement in the Member States; the provisions of the Constitution of the Republic of Lithuania, which establishes the obligation of everyone to protect the environment from harmful effects; the provisions of the legislation of the Republic of Lithuania on environmental protection; the provisions of the legislation which define the state institutions and public administration bodies in charge of exercising control functions in the field of environmental protection. In particular, the author analytically reviews the organization and activities of national and local public authorities of the Republic of Lithuania which are authorized to exercise environmental control and are responsible for environmental safety. The author also partially considers the norms of EU legislation, since the Republic of Lithuania is a member state of the European Union, in particular, the author provides examples of EU regulations that are recommended to be followed by the Republic of Lithuania in organizing the activities of environmental control bodies and maintaining environmental safety standards in the state. The author draws attention to the peculiarities of exercising powers by the bodies and officials of the State environmental control in the Republic of Lithuania, including not only direct control over compliance with the requirements of Lithuanian and international environmental legislation, but also the powers to resolve environmental disputes in an administrative manner, etc. The article also provides practical examples of the effectiveness of general public information on the effectiveness of legal regulation of environmental protection through the rating by the Government of Lithuania in the state as a whole.

Key words: environmental safety, environmental control, environmental control bodies of Lithuania, powers of state authorities and local self-government bodies in carrying out environmental control, environmental safety measures.

У статті розглядається коло правовідносин до питання екологічної безпеки, а саме правових засад екологічного контролю, що має суттєвий вплив на екологічну безпеку держави в цілому на прикладі Литовської Республіки. В дослідженні розглянуто правові основи регулювання екологічного контролю на муніципальному, регіональному, національному рівні, відповідні повноваження та компетенції органів державної влади та місцевого самоврядування в Литовській Республіці. Дане дослідження здійснено із врахуванням базових національних та міжнародних нормативно-правових актів, актів ЄС. Автором здійснено аналіз норм засадничих політик Європейської Спільноти в питаннях захисту і покращення стану довкілля в державах-членах; норм Конституції Литовської Республіки, якою встановлено обов'язок кожного охороняти довкілля від шкідливого впливу; норм законодавства Литовської Республіки про охорону навколишнього природного середовища; норм законодавства, якими визначено державні установи та органи державного управління щодо здійснення контрольних функцій у сфері охорони навколишнього природного середовища; норм законодавства, якими визначено повноваження та контрольні компетенції муніципальних органів влади у сфері охорони навколишнього середовища. Зокрема, автором здійснено аналітичний огляд організації та діяльності національних органів та місцевих органів публічної влади Литовської Республіки, до повноважень яких віднесено здійснення екологічного контролю та покладена відповідальність за екологічну безпеку. Також автором частково розглянуто норми законодавства ЄС, так як Литовська Республіка є державою-членом Європейського Союзу, зокрема автором наведено приклади нормативних актів ЄС, яким рекомендовано слідувати Литовській Республіці в організації діяльності органів екологічного контролю та підтримання норм екологічної безпеки в державі. Автором звертається увага на особливості здійснення повноважень органами та посадовими особами державного екологічного контролю в Литовській Республіці, серед яких не тільки здійснення безпосереднього контролю дотримання вимог законодавства Литви та міжнародного законодавства у сфері охорони довкілля, але й повноваження щодо вирішення спорів у сфері охорони довкілля в адміністративному порядку тощо. Також наведено практичні приклади дієвості загального інформування суспільства щодо ефективності правового регулювання охорони навколишнього середовища шляхом рейтингування з боку Уряду Литви в державі в цілому.

Ключові слова: екологічна безпека, екологічний контроль, органи екологічного контролю Литви, повноваження органів державної влади та місцевого самоврядування у здійсненні екологічного контролю, заходи екологічної безпеки.

Formulation of the problem. The state of environmental safety and the legal framework for environmental control in the Republic of Lithuania has a slightly different content and structure compared to Ukraine. Environmental safety in the European Union member states shows signs of greater efficiency of organization in small states, among which Lithuania is one of the exemplary examples. Therefore, the value of this analytical study is to review and analyze the organization of activities of national and local public authorities in Lithuania, which are responsible for environmental control and environmental safety in the regions and localities as an under-researched issue and to highlight foreign experience in the legal aspect.

Analysis of recent research and publications. In modern legal literature, in spite of the actuality of the research topic, there are no relevant narrow scientific developments

on foreign experience in the field of environmental safety and comprehensive coverage of the legal framework for environmental control in the European Baltic States, in particular, the experience of the Republic of Lithuania. At the same time, it should be noted that there are thorough theoretical works on environmental safety in the works of such scholars as: Y.S. Shemshuchenko, V.I. Andreitsev, V.V. Nosik, V.V. Ladychenko, Y.A. Krasnova, M.V. Krasnova, V.M. Yermolenko, as well as the works of K. Jovaisas, R. Ragulskite-Markovienė, K. Mikalauškaite-Shostakienė, E. Monkevicius, R. Sonjeris, M. Kraftas, R. Mehankas, A. Tatem, P. Merauskas, and others. Thus, the study of aspects of environmental safety and the legal framework of environmental control in the Republic of Lithuania requires a comprehensive analysis of this issue.

This study operates taking into account the basic national and international legal acts and acts of the European Union,

including: Treaty on the Functioning of the European Union" [1], Constitution of the Republic of Lithuania [2], Law of the Republic of Lithuania "On State Control of Environmental Protection" [3], Law of the Republic of Lithuania "On Environmental Protection" [4], Law of the Republic of Lithuania "On Local Self-Government of the Republic of Lithuania" [5], Law of the Republic of Lithuania "On Health Protection" [6], Directive 2001/42/ of the European Parliament and the Council of June 27, 2001 on the assessment of the impact of certain plans and programs on the environment [7], and other acts of the Ecological Heritage of the European Union [8], the Convention on access to information, public participation in the decision-making process and access to justice on issues related to the environment (Aarhus Convention, Aarhus Convention) [9], Declaration of the United Nations Conference on Environmental Problems (Stockholm Declaration) [10] etc.

The purpose of this article is the issue of environmental safety and the legal basis of environmental control in the Republic of Lithuania, the organizational and legal basis of the activity of Lithuanian environmental control bodies, the implementation and application of EU legislation and international norms in Lithuania.

Presenting main material. In many economically developed countries, environmental policy began to be formed through the conclusion of international agreements in the field of environmental protection. International environmental law had a great influence on the formation process, the origins of which go back to 1972, when the Stockholm Declaration was adopted at the World Conference "Human Environment" [10, p.p. 7, 11, 13]. According to many European Baltic scientists, environmental policy is an integral part of environmental management and is implemented through various management mechanisms [11, p. 37].

One of the tasks of the European Community, according to Article 2(1) of the Treaty establishing the European Community, is to ensure a high level of protection and improvement of the environment in the Member States. In accordance with the provisions of Article 174(1) and (2) of Chapter XIX of the Treaty establishing the European Community, the Community's environmental policy shall contribute to the achievement of the following objectives – preservation, protection and improvement of the environment; – preservation of human health; – balanced and rational use of natural resources; – assistance in solving regional and global environmental problems at the international level. The Community's environmental policy aims to achieve a high level of protection, taking into account the diversity of the situation in different regions of the Community and based on the principles of appropriate precautionary measures; remediation of environmental damage, primarily by eliminating its sources, and application of the polluter pays principle. In this context, the Treaty recommends that Member States establish, where necessary, precautionary measures to enable Member States to take temporary environmental protection measures subject to the Community inspection procedure.

According to the third part of Article 53 of the Constitution of Lithuania, the state and each individual must protect the environment from harmful effects. Article 54 of the Constitution of the Republic of Lithuania also stipulates that the state shall take care of the protection of the environment, flora and fauna, certain natural objects and particularly valuable territories, and shall supervise the careful use, restoration and enhancement of natural resources of Lithuania. The Basic Law of Lithuania prohibits the devastation of the land and its subsoil, water and air pollution, radiation impact on the environment, and impoverishment of flora and fauna.

In accordance with Article 4 of the Law of Lithuania "On Environmental Protection", the policy and practice

of environmental protection management should direct public and private interests to improve the quality of the environment, encourage users of natural resources to find ways and means to avoid or reduce negative environmental impact, as well as to produce ecologically friendly products. In particular, the provisions of this article stipulate that natural resources must be used rationally and comprehensively, taking into account the possibilities of preserving and restoring the environment and the peculiarities of nature and the economy of the Republic of Lithuania; environmental protection is based on comprehensive, correct and timely information about the environment. The Law also determines that the state administration of environmental protection in the Republic of Lithuania is carried out by the Government, the Ministry of Environment and other authorized state institutions.

The environmental protection on municipal territories is managed by the relevant local self-government bodies in accordance with the procedure established by law.

Thus, in accordance with the provisions of parts four and five of Article 6 of the Law "On Environmental Protection", the Government of Lithuania coordinates the activities of state administration bodies and local self-government bodies in the field of environmental protection and use of natural resources (Article 6 (4)(3) of the Law); organizes, coordinates the implementation and execution of the state strategy in the field of environmental protection and use of natural resources, prepares state perspective and target programs for environmental protection and use of natural resources, ensures the procedure for their implementation and controls their implementation (Article 6(5)(2) of the Law); defines the boundaries and conditions for the use of natural resources, the procedure for issuing permits and controls the accounting of natural resources (Article 6 (5)(5) of the Law); regulates and controls activities in protected areas, organizes their management (Article 6 (5)(7) of the Law); determines and controls the standards and procedure for accounting for pollutants (except for radionuclides) emitted (released, distributed) into the environment, determines the procedure for issuing permits for emissions (release, distribution) of pollutants (Article 6 (5)(8) of the Law); carries out state control over environmental protection and the use of natural resources, establishes the procedure for exercising state control over environmental protection and the use of natural resources, and organizes the implementation and control of other environmental protection measures (Article 6 (5)(17,19) of the Law).

According to the provisions of part seven of Article 6 of the Law "On Environmental Protection", local governments organize the implementation of environmental legislation adopted by the Government and the Ministry of Environmental Protection of Lithuania. In particular, the competence of local self-government bodies includes: management and distribution of state natural resources in accordance with the limits established for municipalities; development, approval and realization of municipal programs, plans and other environmental protection measures; using funds of special programs to support environmental protection of municipalities; creation and management of territories and landscape objects which are protected by the municipality; examination and approval of projects of planned activities.

The Law of Lithuania "On State Control over Environmental Protection" defines the organization of activities related to the regulation of state control over environmental protection. According to Article 5 of this Law, the Ministry of Nature and Environment (MNRE) organizes state control of environmental protection in the Republic of Lithuania. State control over environmental protection in the Republic of Lithuania is carried out by territorial state administration bodies subordinated to the MNRE, namely, regional nature and environmental protection departments.

The Ministry of Environment is responsible for supervision and state control in the field of environmental protection. In

accordance with paragraph 5 of part one of Article 8 of this Law, the main functions of the Ministry of Environment of Lithuania include – monitoring of compliance by bodies and officials of state control over environmental protection with the requirements of regulatory legal acts in the field of environmental protection management; – assessing the effectiveness of the activities of bodies and officials exercising state control over environmental protection, verifying compliance by individuals and legal entities with the requirements of laws and other legal acts in the field of environmental protection and use of natural resources.

One of the peculiarities among the main powers of the Lithuanian Ministry of Environment is also the trial of disputes over decisions made by state control bodies or officials in the area of environmental protection. Directly, state environmental control in the Republic of Lithuania is carried out by officials of the Ministry of Ecology and Environmental Protection, who have quite significant and extensive powers.

In accordance with part one of Article 12 of the Law of Lithuania “On State Control over Environmental Protection”, state environmental control officials have the following rights and obligations – to check documents certifying the legality of the acquisition of natural resources and their compliance (their quantity, type, quality, etc.); – to carry out state environmental control measures in accordance with the requirements of international law and Lithuanian legislation, in particular to stop and inspect vessels of the Republic of Lithuania and foreign states, other water transport vehicles in the internal territorial waters and economic zone of the Republic of Lithuania (including vessels of the Republic of Lithuania flying the flag of the Lithuanian State and foreign vessels); – to take preventive measures for violations of environmental legislation for which liability is provided (in particular, to stop and inspect vehicles); – to conduct personal inspection and check of things (scene of an event) in accordance with the established procedure, to seize things and documents; – to give binding instructions on activities carried out by individuals or legal entities that violate or may violate environmental legislation or on elimination of such violations; – to stop activities of individuals or legal entities harmful to the environment in accordance with the law; – to make protocols, acts and other documents of a standard form; to resolve cases of administrative violations and impose penalties in accordance with the Law; – to take violators of environmental legislation to law enforcement authorities; – to keep, carry and use firearms and special means in accordance with the Law; – to request from legal entities and individuals necessary information for the prevention of environmental violations, detection of violators and bringing them to responsibility, as well as information on the impact of economic activities on the environment.

In the case of establishing the existence of environmental damage to the environment as a result of a violation of Lithuanian environmental legislation, the state environmental control officer is obliged to offer the violator compensation for the damage caused in good faith within 30 days. If the violator does not voluntarily compensate for the damage within the time limit set by the environmental controller, the state environmental controller is obliged to file a claim for compensation for environmental damage with the court no later than 30 days after the expiry of this period.

It should also be noted that the presentation of an environmental control officer’s service certificate is the basis for entry (passage, entry) to all enterprises, institutions, organisations, farms, military units, border areas and private territories and objects (buildings, premises, etc.) in order to check their compliance with the requirements of environmental legislation, conduct control tests and measurements. State environmental supervision officers, regardless of their place of service, have the right to exercise state environmental control throughout the territory of the Republic of Lithuania, its territorial waters and the Baltic Sea economic zone.

At the same time, the Law of the Republic of Lithuania “On Health Care” in part two of Article 18 stipulates that state and municipal institutions, when making decisions, approving regulations, preparing measures for the implementation of national development programmes and projects for their implementation, are obliged to take measures to protect the environment, measures to ensure a system for assessing environmental risk factors for human health. Such measures are implemented, among other things, by: 1) improving the environment so that it becomes favourable for human health, reducing the negative impact of human activity on health and eliminating the damage caused by human activity to the environment; 2) ensuring the operation of the system for assessing environmental risk factors for human health; 3) informing and educating the public on the environment and its impact on human health; 4) assessing the impact on public health of economic activities that may pose a threat (danger) to human health.

Under Article 6(1)(28) of the Law on Local Self-Government of the Republic of Lithuania, the autonomous functions (own powers) of municipalities include improvement and protection of the environment, as well as environmental monitoring. In particular, the provisions of this Law introduce a planning system in each municipality, which consists of territorial, strategic and financial planning.

Thus, in accordance with part two of Article 60 of the Law on Local Self-Government of the Republic of Lithuania, the strategic plan for the development of a municipality and programmes for the development of certain sectors (areas) of the economy of each municipality is a long-term planning document drawn up for at least 3 years and should include, among other things, the environmental component of the development of the municipality’s territory, as well as take into account the relevant regulatory acts on planning the territories of the state, regional and municipal levels. Peculiarities of establishing environmental taxes and fees and control over their payment by business entities are determined by resolutions of the Government of the Republic of Lithuania [12].

In addition, as noted at the beginning of the analytical review, since 2004, the Republic of Lithuania has been an EU member state in accordance with Article 150 of the Constitution of Lithuania [13].

Therefore, the Republic of Lithuania is obliged to follow the directives, regulations, and implementing regulations on the organisation of environmental control in the EU member states in order to properly maintain the environmental safety standards of the state. Among them are Implementing Regulation (EU) 607/2012 dated 06.07.2012 on detailed rules relating to the due diligence system and the frequency and nature of inspections by controlling organisations, in particular as provided for in Regulation (EU) 995/2010 laying down the obligations of operators placing timber and timber products on the market [14].

Or, for example, Directive 2012/18/EU dated 04.07.2012 [15] on the control of the threats of major accidents involving the use of hazardous substances. This Directive sets out clear rules for preventing large-scale accidents that may occur as a result of certain industrial activities and limiting their consequences for human health and the environment. The Directive provides for an assessment of the risk of an accident resulting from the use of a particular hazardous substance, and the identification in each country of “operators” who manage or control the activities of a hazardous plant (production).

In addition to direct legal and regulatory measures of the state in the field of environmental control, the definition of environmental safety was significantly influenced by the introduction in 2022 by the Ministry of Environment of the Republic of Lithuania of the environmental rating of the state at the level of Lithuanian municipalities. As stated on the official website of the Ministry of Environment

of Lithuania, the environmental rating of municipalities is based on a standardised assessment of municipalities according to 49 criteria in nine areas of environmental policy, including waste, energy, construction and spatial planning, communication, climate change management, environmental quality, precautionary measures and comfort, water quality, biodiversity, landscape data and environmental awareness in the territory [16]. The Lithuanian scientific, practical and innovative environment plays an important role in the issue of environmental safety. Lithuanian universities are actively researching ways to recycle and reuse waste, for example, to create raw materials for future use, and some projects have been particularly successful. Currently, the reuse of waste in product development in various environmental fields is very popular in Lithuania and encouraged by international research projects, and more and more unconventional solutions are becoming real products to resolve various environmental problems in the Republic of Lithuania [17].

Conclusions. Based on the objectives and purpose of the study and in accordance with the issues examined in the research, the following conclusions can be drawn. In the Republic of Lithuania, which has a relatively small territory, the powers of environmental control and environmental safety authorities are distributed quite effectively. In Lithuania, environmental control functions are carried out by central and local government bodies,

as well as a number of powers are carried out at the level of municipalities, which directly carry out environmental control and environmental safety measures at the community level. In order to ensure proper environmental safety in municipalities and in the state as a whole, officials and employees of environmental control bodies carry out inspections, monitor the state of the environment within their competence, and take preventive measures against violators or potential violators of Lithuanian environmental legislation. In particular, environmental control officials are empowered to resolve disputes, as well as to impose fines, penalties, and bring claims in court regarding environmental violations. Environmental safety is a priority policy area for all EU member states, and in Lithuania, environmental safety is defined as one of the areas of national importance, which contributes to active programme measures in Lithuanian municipalities and is determined by the relevant rating indices. The recommendatory norms of the European Union legislation, which are strictly implemented by the Government of Lithuania, and the novelties of the Lithuanian national legislation are aimed at maintaining and improving the state of environmental safety. In addition, the Lithuanian Government actively participates in programmes of European regional environmental funds, scientific and innovative research aimed at improving the environmental situation and environmental safety in Lithuania.

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