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

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

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The article examines the issues of environmental safety in the context of the general legal framework for environmental control in the Republic of Latvia. The study provides an overview of the legal bases for regulating environmental control at the municipal and national levels, the implementation of EU acts in national legislation in the context of environmental control, and an overview of the relevant functions and powers of state authorities and local self-government bodies in the Republic of Latvia.

This study is carried out taking into account the government's complex programme acts that have systematically built and significantly improved the level of environmental safety of the Republic of Latvia, and ensured sustainable and systematic implementation of basic national and international legal acts, including EU acts. The author analyzes the constitutional provisions of Latvia, the provisions of national legislation and the implementation of legal acts of the provisions of the EU legal acts in Latvia in the field of environmental safety and environmental control. The author of the study presents an overview of the structure of Latvian authorities which are responsible for environmental control, examines the functions and powers of the bodies of the Ministry of Environment and Regional Development of Latvia, in particular, with regard to the implementation of environmental safety measures; reviews the specific features of the European norms which were implemented into Latvian national legislation and their effectiveness. In this article, attention is paid to the limitations of local governments in exercising environmental control and taking environmental safety measures by self-governments independently due to the systemic supervision of them by the State Agency for Regional Development in almost all areas. In this study, the author has demonstrated, using the example of the Republic of Latvia as an EU Member State, the effectiveness of ensuring environmental safety through the peculiarities of organizing the functions and powers of central and local authorities in the field of environmental control, as well as the implementation and effectiveness of the norms established by EU regulations in Latvian legislation.

Key words: environmental safety, environmental control, environmental control bodies of the Republic of Latvia, powers of authorities regarding environmental control, environmental safety measures.

У статті розглядаються питання екологічної безпеки в контексті загальних правових засад здійснення екологічного контролю в Латвійській Республіці. В дослідженні здійснено огляд правових основ регулювання екологічного контролю на муніципальному та національному рівні, застосування актів ЄС в національному законодавстві в контексті здійснення екологічного контролю, здійснено огляд відповідних функцій і повноважень органів державної влади та місцевого самоврядування в Латвійській Республіці. Дане дослідження виконано із врахуванням урядових комплексних програмних актів, що системно вибудували та суттєво підвищили рівень екологічної безпеки Латвійської Республіки, забезпечили сталу і системну імплементацію базових національних та міжнародних нормативно-правових актів, зокрема актів ЄС. Автором здійснено аналіз конституційних норм Латвії, норм національного законодавства та застосування норм правових актів Європейського Союзу в Латвії в сфері екологічної безпеки та екологічного контролю. Автором дослідження представлено огляд структури органів влади Латвії, до компетенції яких належить здійснення екологічного контролю, розглянуто функції та повноваження органів Міністерства навколишнього середовища і регіонального розвитку Латвії, зокрема щодо здійснення ними заходів екологічної безпеки; здійснено огляд особливостей імplementованих європейських норм до національного законодавства Латвії та їх ефективність застосування. В статті звертається увага на обмеженість органів місцевого самоврядування у здійсненні екологічного контролю та провадження заходів екологічної безпеки органами самоврядування самостійно через системний нагляд за ними Державною агенцією регіонального розвитку майже в усіх сферах. В даному дослідженні автором зроблена спроба показати на прикладі Латвійської Республіки як держави-члена ЄС ефективність забезпечення екологічної безпеки через особливості організації функцій та повноважень центральних та місцевих органів влади щодо здійснення екологічного контролю, а також виконання і дієвість норм встановлених нормативними актами ЄС в латвійському законодавстві.

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

Formulation of the problem. Environmental safety and the legal framework for environmental control in the Republic of Latvia have a fairly simple content and structure, but the state of environmental safety and the effectiveness of environmental control measures implemented at the level of the EU member states have different degrees of efficiency. That is why, the Republic of Latvia, as an example of an effective organization of environmental control and, as a result, the corresponding state of environmental safety in the country, contains signs of one of the most successful EU practices. Therefore, the value of this analytical study is to review and analyze the organization of activities

of public authorities of Latvia as an EU member state, whose powers include environmental control and responsibility for environmental safety in the legal aspect.

Analysis of recent research and publications. The relevance of the research topic is due to the current trends in the development of law in the field of ecology and environmental protection. At the same time, in modern publications covering the foreign experience of the Baltic States, there is a lack of narrow scientific developments in the field of environmental safety with coverage of the legal framework for environmental control, in particular, the experience of the Republic of Latvia. It is worth noting that there are

substantial scientific and practical studies on environmental safety and control in the works of both Ukrainian and Latvian scholars, in particular: Y. S. Shemshuchenko, V. I. Andrejtsev, V. V. Nosik, V. V. Ladychenko, Y. A. Krasnova, M. M. Miki-evich and others, as well as the works of G. Kutris, I. Čepane, E. Čepuritis, J. Matiescu, R. Kilis, S. Meire, M. Stuchka, H. Karklins and others. Therefore, the study of environmental safety and the legal framework for environmental control in the Republic of Latvia requires a more meaningful modern vision and analysis of this issue.

The Baltic States are distinguished by the leading practices in environmental safety, organization of state and public environmental control among the EU Member States.

This study was carried out taking into account the basic national and international legal acts and acts of the European Union, including: The Treaty on the Functioning of the European Union, the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) [1], Declaration of the United Nations Conference on the Environment (Stockholm Declaration) [2], the Constitution of the Republic of Latvia [3], the Law of the Republic of Latvia “On Environmental Protection” [4], the Law of the Republic of Latvia “On the Environmental Protection Fund” [5], acts of the Government of Latvia, etc.

The purpose of this article is to examine the issues of environmental safety in the Republic of Latvia through an analytical review of the organizational and legal framework of the Latvian environmental control authorities, implementation and application of EU and international norms in Latvia.

Presenting main material. Latvia is one of the greenest countries in Europe – half of the country’s territory is covered by forests, surrounded by the Baltic Sea and the Gulf of Riga, 40% of energy is derived from renewable resources, and the bioeconomy plays an important role in the national economy and exports. Latvia’s clean air, green landscapes, and long sea coastline are an important natural capital [6]. A significant amount of research has been conducted in Latvia in the field of environmental security and its components, which are used by Latvian scientists as a basis for further subjective analysis of security for Latvian residents. Latvia stands out among the EU member states with the largest relative difference in the assessment of environmental and climate change [7, p. 84].

Therefore, Ukrainian legal scholars who have studied the issues of ensuring the implementation of European environmental standards, among other things, have drawn attention to the significant effectiveness of the educational component in the environmental communication of state institutions in the field of environment on the example of Latvia [8, p. 226].

At the same time, according to Latvian scientists [9, p. 60], in the modern consumer society, environmental protection and ensuring a favorable environment has become a global problem, the solution of which determines the fate of all mankind. People have to decide whether to continue the rapid production of material values and uncontrolled destruction of natural resources, or to act proactively so that the balance of life on the planet and the interests of future generations are not violated in the near future. According to Article 2(1) of the Treaty establishing the European Community [10], one of the tasks of the European Community is to ensure a high level of protection and improvement of the environment in the Member States.

According to the provisions of parts one and two of Article 174 of Part 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 is 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, if necessary, precautionary measures that will allow for temporary measures in Latvia’s environmental policy to determine the areas of environmental safety and environmental control in the country. In particular, the Government of Latvia adopted the Environmental Policy Plan for Latvia (hereinafter – the Plan) [11]. It should be noted that this document was developed in 1994 and had a comprehensive strategic importance for the Republic of Latvia, in particular, among the co-authors of the Plan were experts from the Ministry of Economy of Latvia, the Ministry of Finance of Latvia, the Ministry of Agriculture of Latvia, the Nature Fund of Latvia, academic, scientific, educational institutions of Latvia, with the participation of experts from the Netherlands Ministry of the Environment, Urban Planning and Housing, the Swedish Environmental Protection Agency, the Government of the Netherlands. The Environmental Policy Plan identified priority environmental problems in Latvia, analyzed them and developed solutions, and among the means of implementing environmental policy, state control and other types of environmental control (early warning monitoring, voluntary agreements, national programs, etc.) were prioritized. And for the effective application of environmental laws, appropriate guarantees have been established through the system of state administrative institutions for environmental protection, their logistical support, environmental education, as well as state and other types of control in the field of environmental protection.

According to clause 4.4.1 of the Plan, state control over compliance with environmental protection and regional development requirements in the territory of the Republic of Latvia is exercised by the State Environmental Inspectorate (hereinafter referred to as the SEI), regional environmental protection units (SEUs), and the administration of specially protected natural areas. The SEI exercises state control over environmental protection, use of natural resources and construction in the territory of the Republic of Latvia, on the continental shelf and in the economic zone of the Republic of Latvia of the Baltic Sea. The main task of the SEI is to control the observance and fulfillment of the requirements of environmental protection legislation by all legal entities and individuals in the territory of Latvia (including the continental shelf and the exclusive economic zone of the Baltic Sea), control the use of natural resources and construction, as well as the implementation of state environmental protection programs, execution of plans and implementation of construction projects, and taking other necessary measures.

Regarding other types of control in the field of environmental protection, clause 4.4.3 of the Plan emphasizes that municipal authorities may also control compliance with environmental protection requirements on their territory. In the future, the control of local governments may become quite important, especially if they are delegated the rights and obliged to solve environmental problems on their administrative territory. Self-control of polluters, public awareness, and orientation towards European Union standards are also essential.

The next Decree of the Government of Latvia “On the Basic Principles of Environmental Policy for 2021–2027” [12] approved the following main directions of environmental policy of Latvia with the provision of relevant instructions to the central authorities of the Government of Latvia, in particular, the Ministry of Environmental Protection and Regional Development, the Ministry of Economy, the Ministry of Finance, the Ministry of Transport, the Ministry of Health, the Ministry

of Internal Affairs, the Ministry of Agriculture and the Ministry of Education and Science and their subordinate bodies are defined as co-authors. Among the areas of environmental policy (Section II of the Fundamental Principles), the priority is the basic system of environmental management (horizontal management issues) and state environmental monitoring, and among the actions and tasks in accordance with clause 42 of Section III is the improvement of the system of monitoring and control of polluting activities in Latvia.

Furthermore, in Latvia, the Government approves relevant long-term programs and policies, the main strategic implementer for which is the Ministry of Environmental Protection and Regional Development of Latvia in cooperation with line ministries and central authorities, which take into account environmental security measures. For example, in 2023, a new environmental policy of the Ministry of Defense and the Methodological Guidelines for Environmental Protection of the Ministry of Defense for 2023-2027 were approved [13].

At the same time, the preamble to the Constitution of Latvia states that every person must take care of himself, his family and the common good of society, treating others, future generations, the environment and nature responsibly. According to Article 115 of the Constitution of Latvia, the state protects the right of everyone to live in a safe environment by informing about the state of the environment, taking care of its preservation and improvement. Latvian legal scholars [14] also emphasize that the right to a favorable environment, as a new type of fundamental right, is recognized as one of the most important fundamental human rights, closely related to such human rights as the right to health, life, property and freedom of expression. That is, the Constitution of Latvia establishes the state's obligation to protect and preserve the environment, as well as the subjective right of everyone to live in a safe environment.

Also, in accordance with Article 11 of the Law of the Republic of Latvia "On Environmental Protection", citizens of the Republic of Latvia have the right to live in a quality living environment and to demand that competent state institutions, legal entities and their officials cease such activities or inactivity that worsen such environment, harm the health of residents or threaten their lives, interests and property.

The Law of Latvia "On Environmental Protection" does not contain direct provisions on environmental safety and the definition of environmental control, but the Law takes into account the legal provisions of EU directives that are binding on the proper information and public participation of the Latvian population regarding the implementation of environmental protection measures and environmental protection, in particular 1) Directive 2004/35/EC of the European Parliament and of the Council of April 21, 2004 on environmental liability with regard to the prevention and compensation of damage caused to the environment [15]; 2) Directive 2003/35/EC of the European Parliament and of the Council of May 26, 2003, of the European Parliament and of the Council of May 26, 2003, providing for public participation in the drawing up of certain plans and programmes relating to the environment and amending Council Directives 85/337/EEC and 96/61/EC [16]; 3) Directive 2003/4/EC of the European Parliament and of the Council of January 28, 2003 on the availability of environmental information to the public and repealing Council Directive 90/313/EEC [17].

An important part of environmental safety is the state's educational policy – the promotion of environmental education, science, monitoring activities, and the implementation of targeted environmental projects are carried out with the financial support of the Environmental Protection Fund of Latvia. At the same time, according to Part 1 of Article 6 of the Law of Latvia "On the Environmental Protection Fund", the Chairman of the Fund's Council is

the Minister of Environmental Protection and Regional Development of Latvia or his authorized person, who is an official of the Ministry of Environment.

Direct state control and public administration in the field of environmental protection in Latvia is carried out by the State Environmental Service of the Republic of Latvia (hereinafter – the Service) [18], which is subordinated to the Minister of Environmental Protection and Regional Development. The purpose of the Service is to ensure compliance with legal acts in the field of environmental protection, radiation and nuclear safety and the use of natural resources, as well as to promote the rational use of natural resources and energy.

According to Article 3 of Section II of the Regulation on the State Environmental Service of Latvia, approved by the Government of Latvia (hereinafter – the Regulation on the Service), the functions assigned to the Service include:

- 1) state control over environmental protection and the use of natural resources in the territory of Latvia, on the continental shelf and in the economic zone of the Republic of Latvia of the Baltic Sea in accordance with the procedures established by the regulatory acts governing environmental protection;
- 2) control over fishing activities carried out by Latvian fishing vessels in the Member States of the European Union, non-EU countries and international waters in accordance with the procedures set forth in the regulations governing fishing;
- 3) monitor and control radiation safety and nuclear safety in accordance with the procedure established by the regulatory legal acts on radiation and nuclear safety.

In accordance with Article 4 of the Service's Regulation, among the tasks of controlling the implementation of environmental legislation, the Service carries out:

- 1) control by issuing regulations on the extraction and use of natural resources, nature protection, emissions of pollutants into the environment, hazardous and household waste management, used container management, operations with chemicals and mixtures, as well as compliance with the requirements established for radiation safety and nuclear safety;
- 2) issuing and approving permits (licenses), technical regulations and other administrative acts for the use of natural resources and polluting activities in accordance with the procedure established by regulatory legal acts on environmental protection, radiation safety and nuclear safety;
- 3) informing the public about the activities of the Service and providing the public with environmental information available to the Service;
- 4) participation in emergency management;
- 5) air monitoring and monitoring of surface and groundwater within the framework of projects financed by the European Union funds.

With the aim of ensuring the fulfillment of functions and tasks assigned to the Service in accordance with Article 5 of the same Regulation, the Service:

- 1) in accordance with its competence, cooperates with other direct management institutions (i.e., with central government authorities or institutions subordinated to central executive authorities), as well as local governments and their bodies, other institutions, non-governmental organizations, institutions of other countries and international organizations, and participate in international cooperation programs and projects;
- 2) has the right to request and receive free of charge from state and local authorities, as well as from individuals in cases stipulated by external regulations, information and documents necessary for the performance of official tasks;
- 3) has the right to check compliance with environmental protection and nature management regulations at any facility;
- 4) submits proposals when drafting legislative acts.

In the field of environmental protection, the Latvian Nature Protection Authority is a body of the executive branch

with direct subordination to the Minister of Environmental Protection of Latvia. The Authority is endowed with a fairly powerful scope of powers, functions and level of responsibility, as the Head of the Authority is appointed and dismissed directly by the Minister of Environmental Protection and Regional Development of Latvia.

According to Article 2, Section II of the Regulation on the Latvian Nature Protection Authority approved by the Government of Latvia (hereinafter – the Regulation on the Authority) [19], the functions assigned to the Authority include the following:

1) management of specially protected natural areas established by the Saeima and the Government (hereinafter referred to as the protected area);

2) implementation of the national environmental policy, including in the field of protection of species and their habitats;

3) functions of the controlling body in accordance with the regulations on international trade in endangered species of wild animals and plants;

3) functions of the competent authority in accordance with the regulatory legal acts on trade in seal products;

4) administration of compensation costs due to restrictions on economic activity in specially protected natural areas and micro-reserves, as well as administration of compensation costs due to significant damage caused by animals of specially protected non-hunting species and migratory species.

In accordance with Article 3 of the Regulation on the Department, it also performs the following tasks in the implementation of environmental safety and control measures:

1) organizes and controls the development and updating of environmental protection plans for protected areas, as well as facilitate and coordinate the implementation of these plans;

2) submits proposals for the establishment of new protected areas, changes in the category of protected areas or rules for the protection and use of protected areas, as well as for the inclusion of protected areas in international networks of protected areas;

3) provides an opinion on the validity of liquidation of the protected area status;

4) organizes and controls the development and updating of species and habitat protection plans, and facilitate the implementation of these plans;

5) organizes optimal maintenance and restoration, as well as measures to protect specially protected species, their habitats, and specially protected habitats;

6) prepares information for the public and the European Commission on protected natural areas of European importance (Natura 2000), specially protected species and habitats, as well as on the acquisition of individuals of specially protected species;

7) plans and organizes necessary environmental protection and management measures in protected areas and micro-reserves;

8) implements projects in the field of nature protection;

9) monitors compliance with legal acts regulating the protection of protected areas, species and habitats, as well as micro-reserves;

10) controls the trade in endangered wild animals and plant specimens;

11) in accordance with the regulatory legal acts governing nature protection, issues and cancels permits and suspends their validity, provides conclusions and approvals in the field of nature protection;

12) ensures the placement of information signs to mark the external boundaries of protected areas;

13) coordinates and conducts scientific research and monitoring in the field of natural sciences in protected areas, collects and stores the results of scientific research and monitoring data, collects and summarizes information on the implemented, ongoing and necessary environmental protection measures in protected areas and micro-reserves;

14) conducts educational work among the population on nature protection issues;

15) provides information necessary for the development of territorial plans for protected areas, specially protected species and specially protected habitats and their protection regime, and, if the municipality is located in a protected area, provides conditions for the development of territorial plans and conclusions on their territorial plans;

16) manages the state property of the Ministry of Ecology and Natural Resources, which is at the disposal of the Department;

17) maintain the state register of protected areas and micro-regions, as well as specially protected species;

18) provides the European Environment Agency with data on protected areas, protected species, their habitats and biotopes;

19) certifies experts in the field of species and habitat protection, supervises the professional activities of experts and evaluates the professional activities of experts, creates and maintains a register of experts, and evaluates other issues related to certification;

20) creates and maintains a database of expert opinions in the field of species and habitat protection;

21) performs other tasks defined by regulatory legal acts on environmental and forestry protection.

The Administration has a central office with structural subdivisions, as well as subordinate territorial offices. In general, as a structural unit of the Ministry of Environment and Regional Development, the Nature Protection Authority is the body that monitors the effectiveness of management in this area and also controls the specially protected areas of Latvia.

In general, the structure of the Ministry of Environment and Regional Development of Latvia also includes the State Environmental Supervision Service, the Environmental Protection Fund, the Latvian National Museum of Nature, the Latvian National Botanical Garden, and the State Agency for Regional Development. It should be noted that the State Environmental Supervision Service is a competent institution of the environmental management and audit system, but it does not have controlling functions and is not responsible for organizing environmental safety measures.

In this context, it should be noted that according to Latvian legislation, the competence of local governments does not include the implementation of environmental control and safety measures at the local level. The Law of Latvia “On Local Self-Government Bodies” [20] defines cases of mandatory approval, notification of the Ministry of Environmental Protection and Regional Development in cases provided for by the Law or provision of a relevant conclusion by a sectoral ministry, etc. At the same time, in accordance with Article 64(1) of the Law of Latvia “On Local Self-Government Bodies”, the activities of local self-government bodies are controlled by the Ministry of Environmental Protection and Regional Development in accordance with this Law. The Ministry of Environmental Protection and Regional Development has the right to assess the legality of any provisions of local government regulations, except for issues related to the local budget and territorial planning.

Also, in accordance with Article 19(4)(8) of the Law of Latvia “On the Protection and Management of the Marine Environment” [21], the State Environmental Service or an institution issuing a permit or license, in cooperation with the National Armed Forces and the State Border Guard, control the use of the sea and the protection of the marine environment in accordance with the legislation on environmental safety, fisheries protection, maritime affairs and maritime security and border protection.

One of the central bodies in the field of environmental protection in the EU is the European Environment Agency (EEA), which is the main developer of the EU environmental policy and ensures the effectiveness of reporting to national and inter-

national government agencies in accordance with the EEA Regulation [22]. In particular, every four years, the European Environment Agency (EEA) [23] publishes a report on the state of the environment in Europe and a list of problems that need to be addressed as a matter of priority.

At the European Union level, the aspects of pollution prevention and control are regulated in accordance with Directive 2010/75/EU of the European Parliament and of the Council of November 24, 2010 on industrial emissions (integrated pollution prevention and control) [24]. In the implementation of environmental control, the Republic of Latvia is obliged to follow the directives, regulations, and implementing regulations on the organization of environmental control in the EU Member States in order to properly maintain the environmental safety standards.

Conclusions. Based on the objectives and purpose of the study and in accordance with the issues discussed in the research, the following conclusions can be drawn. In Latvia, the policy of sustainable planning and environmental security of the state has been built systematically. The Latvian government has adopted a number of policy documents outlined in the study, which were developed in cooperation with the Ministry of Environmental Protection and Regional Development, other ministries, agencies, and public environmental organizations of Latvia, as well as with the coop-

eration and expert support of foreign ministries, in particular the Government of the Kingdom of the Netherlands. The responsibility for the implementation of these governmental policies aimed at improving the environmental safety of the Republic of Lithuania in the long term was also jointly determined. The next feature of the study is the rather extensive powers vested in the Ministry of Environment of Latvia, which is defined as the main governmental body in the field of environmental protection and regional development. Direct environmental control and environmental safety measures are carried out by the Latvian Nature Protection Authority and the State Environmental Service of the Republic of Latvia. It is worth noting that the main powers of environmental control are vested in the Ministry and its local (regional) structures. The peculiarity of the legislation is that the Ministry is responsible not only for sectoral environmental control and environmental safety measures. The Ministry of Environmental Protection and Regional Development controls the activities of local self-government, in particular, it has the right to assess the legality of any provisions of local self-government regulations, with the only exceptions being local budget and territorial planning issues. The EU legislation is aimed at preserving and improving the state of environmental safety, in particular, the laws analyzed in this study contain direct references to the application of EU regulations and directives.

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