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ORIGINAL ARTICLE

Ecological management in economic relations: the problem of legislative support

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We considered four groups of legal principles inherent in the natural resources management law: general legal principles; legal principles relating only to natural objects, but not only to the use of these objects; introductory provisions, addressed only to the right to use natural objects; principles inherent in the right to use but not all primary natural objects. The analysis of natural resource legislation within the natural resource management law framework revealed that not all of these natural resource management law principles had been developed equally as the main instruments of legal regulation. The principle of the derivation of the right to use natural resources from the right of ownership, the principle of sustainability of the right to use natural resources, the principle of the intended use of natural resources, and the principle of payment for natural resource use are more developed in the current legislation. It is proved that the current normative legal acts governing relations of natural resource management understand natural objects as complex natural formations, each of which acts as an integral component of the natural environment, interacting with all other natural components and ensuring their existence, as well as economic, environmental and social well-being of the population.
Keywords: ecological management, legislative support, legal regulation, natural resource legislation.

Introduction

In our opinion, researchers of environmental law quite properly admit that the well-known modern researchers' keenness on problems of natural resource ownership, its delimitation, the possibility of involving specific natural resources in the market turnover in many respects contributed to definite oblivion of the issues of legal regulation of the rational natural resource management. Currently, the scientific researches, discussions in the periodicals reasonably criticize the views that rational natural resource management should develop under the market's influence, that the market itself will adjust everything. Thus, there are no sufficient grounds to assert that the transfer of lands to private ownership will automatically increase the owners' interest in their rational use. The facts indicate just the opposite – the growth of the land legislation violations, a significant part of which concerns the irrational use of agricultural land.

Methods

The methodological basis of the research is the principle of the unity of integrated and differentiated approaches to the legal regulation of public relations regarding nature, acting as a logical continuation of the principle of the unity of use of natural resources and protection of the natural environment, as well as the principles and introductory provisions of the concept of sustainable development.

Among the general scientific methods, comparative-legal, historical and logical methods were used in the current research. The author analyses the texts of legal norms compares them with each other and with facts and trends in environmental management practices. Among the private, scientific methods, the sociological method is used, with the help of which the author analyzes the state of legal reality in economic relations and offers recommendations for improvement of the legal base. Methods of economic law are a set of methods regulating the influence of norms of economic law on the behavior of entities of economic, legal relationship. Conceptually, the methods of economic law are based on two principles: general one ("everything that is not prohibited by law is allowed"), followed by enterprises and entrepreneurs, and binding one ("subjects of economic law are obliged and must perform what is laid down in law"). This principle mainly applies to the public administration of the economy. As noted in Article 19 of the Constitution of Ukraine, State authorities and local self-government

bodies are obliged to act within limits and in the manner provided by the Ukrainian Constitution and laws. Economic relations are complex relations. They combine organizational and property (value) elements. Therefore, as an integrated area of law, there are three basic methods of legal regulation in economic law. First, this is a method of autonomous decisions of subjects of economic relations. It is based on the fact that enterprises and entrepreneurs have the right on their initiative to make any decisions that do not contradict the legislation of Ukraine (Article 27 of the Law of Ukraine "On Enterprises in Ukraine"4; articles 3, 5 of the Law of Ukraine "On Entrepreneurship"). This means that the entities of economic relations independently:
a) plan their economic activities;
b) within the framework of the legislation, freely choose the subjects of economic contracts and determine the obligation in them and all the necessary conditions of economic relations (articles 20, 21 of the Law of Ukraine "On Enterprises in Ukraine"; article 5 of the Law of Ukraine "On Entrepreneurship").
The method of recommendations also applies in economic law. The state regulates the conduct of economic entities through recommended models of appropriate legal relations. For example, exemplary forms of contracts regarding certain types of relations and methodological recommendations regarding certain business activities are examples of using this method by the state. Depending on the specific economic situations, the interest of the state in certain economic relations, and other factors that regulate economic life, any of these methods can be used, based on which of them will be most effective.

Results

An analysis of land use practice demonstrates that the desire of some agricultural producers to obtain the maximum possible short-term profit leads to an intensive depletion of land. Therefore, accounting for the market situation, commodity producers increasingly replace the grain area with sunflower, which depletes the land even more than wheat. The existence of problems of ensuring rational natural resource management is also evidenced by the fact that the transition to a market economy did not cause an increase in waste processing. Moreover, the need to combine the flexibility of a market economy, capable of rapid raw materials reorientation, with forward-looking government support, stimulating the use of waste and reducing their negative impact on the environment, has become more acute.
On this premise, we believe that a qualitatively new approach to solving legal regulation of rational natural resource management is required at the current stage. We presume that the more thoroughly the ecological and legal means of ensuring the rational natural resource management is researched and legally regulated, the more efficiently they are implemented in practice. Currently, foreign and domestic law possesses a significant arsenal of legal means capable of solving these problems. These are environmental rationing, planning, environmental impact assessment, environmental expertise, licensing, and others. Unfortunately, not all of these environmental and legal means of ensuring rational natural resource management have received proper legislation concerning natural resources management. So far, in the sectorial legislation, only the authorization-based procedure of providing the use of particular natural objects has received the most remarkable development. At the same time, none of the natural resource acts mentions the necessity of the environmental impact assessment of the planned activity (McKean, 1980; Brooke & Rayment, 1999).
These and other issues require theoretical development from improving the legal regulation of relations on natural resource management. These issues also lead to the need to solve the main problem of further developing the right to use natural resources. Researchers admit that the concept of "the right to use natural resources" is seldom used in the current legislation despite its importance in the legal regulation of nature use and protection. It is widely used only in scientific works and acts mainly as a collective concept. This is explained by the fact that the legislation codification in natural resources management was carried out according to the subject-branch principle, and relations on natural resources management are regulated mainly concerning particular natural objects. In addition, the objective prerequisites and requirements for the implementation of unity of both differentiated and integrated approaches were previously ignored. Preference was given to the legal regulation of public relations about the particular natural objects (Bergstrom, 1990; Voisey & Hewett, 1999).
However, there is an integrated approach to legal regulation, in which tasks of regulatory use and protection of the natural environment as a whole are solved as a single object. The integrated approach to the development of environmental law is based on the unity of the object of legal regulation: nature (natural environment), the relationship and interdependence of processes, and phenomena in nature. All this requires consistent approaches, common principles, and mechanisms for regulating public environmental relations. Thus, a two-fold task – satisfaction, based on natural resources management, of the diverse (economic, physiological, recreational, aesthetic) needs of a man and society, and simultaneous prevention of the various forms of degradation of nature (depletion of natural resources, environmental pollution) is common to all types of natural resource management. Therefore, the principle of rational, ecologically justified use of natural resources is the same for all types of natural resources management. Therefore, it is evident that scientific literature on the law of natural resources use emphasizes the initiation of the order and conditions for the rational natural resource management to meet the needs of the national economy, environmental, economic, cultural, and health-improving interests of citizens, as well as environmental protection, rights and the legitimate interests of natural resources users.
Nevertheless, despite the importance and relevance of the priority development of an integrated approach to the legal regulation of public relations regarding the use and protection of natural objects, there is still no generalizing and unifying law, which is undoubtedly a significant drawback to domestic law. Consequently, environmental legislation has been and continues to be underdeveloped (Cropper & Oates, 1992; Coates, 2000).
All this testifies to the need for further improvement and development of the natural resources management law. One of the main directions should be prioritizing an integrated approach to the legal regulation of public relations concerning natural resources management. At the same time, one of the critical stages of the consistent implementation of an integrated approach

in the study and establishment of common principles to the exclusive use of natural resources is one of its main characteristics as a single institution of law.

The natural resources management law, as a branch of law, must have its principles. The scientific literature on environmental law formulates these principles in general. The legislation codifies certain types of natural resources management and specific areas of interaction between society and nature.

Nevertheless, there are few works where certain principles of the right to use natural resources are formulated. Thus, there are four groups of legal principles inherent in the natural resources management law. These are:

1) general legal principles;
2) legal principles relating only to natural objects, but not only to the use of these objects;
3) introductory provisions, addressed only to the right to use natural objects,
4) principles inherent in the right to use but not all primary natural objects.

According to the authors, the first, second, and third groups' principles can be considered typical for the entire natural resource management, and the fourth group is remarkable for certain types of natural resource management. At the same time, among the unique principles of the natural resources management law, inherent in all its types, the following stand out: controllable role of the state in the right to use, independence of the right to use, rational use of natural resources, the intended nature of the natural resource use, the efficiency of natural resources management, its sustainability, ecologization and the need to maintain a certain balance (Downing & Watson, 1974; Brooke & Rayment, 1999).

The most important positive point of the above-presented research of the principles of the natural resources management law is, in our opinion, the implementation of an integrated approach, the recognition that there are not only principles inherent in the legal regulation of a particular type of natural resources management, but also common principles for all types of natural resources management.

Some researches formulate the principles of environmental management, the purpose of which is to ensure the constitutional right of citizens to a favorable environment: the principle of preventing environmental damage; replacement principle; the principle of conservation of biological diversity; the principle of preserving the quality of natural resources; the principle of permissive natural resources management; the principle of planning natural resources management; the principle of the availability of information on the environment; the principle of participation of citizens in decision-making (McKean, 1980; Epple & Visscher, 1984).

The positive side of the analysis presented above is the consistency of the formulation of the environmental law principles, the system of which is subordinated to a single goal. At the same time, we cannot fully support this provision, since to a certain extent, it exaggerates the environmental aspect in the field of natural resources management. Therefore, it is not a coincidence that rational natural resource management is excluded from the system of principles. At the current stage, initiation of the environmental priority law should not, from our point of view, reduce the economic function of natural resource management. The legal regulation of public relations that develop in the process of natural resource management is designed, in our opinion, to harmonize the satisfaction of the simultaneously growing and at the same time often opposite needs and legitimate interests of citizens and legal entities, both in economic growth and in preserving and improving the natural environment.

An alternative interpretation of the principles of the natural resource management law is preferable. Thus, the right to use natural resources is characterized by particular principles: the derivation of the right to use natural resources from the right to own them; rational natural resource management; ecosystem approach to natural resource management; sustainability of the right to use natural resources; intended use of natural resources; payment for the exceptional natural resource use (Epple & Visscher, 1984; Goodstein, 1997).

The analysis of natural resource legislation within the natural resource management law framework gives reason to believe that not all of these natural resource management law principles have been developed equally as the main instruments of legal regulation. The principle of the derivation of the right to use natural resources from the right of ownership, the principle of sustainability of the right to use natural resources, the principle of the intended use of natural resources, and the principle of payment for natural resource use are more developed in the current legislation.

Thus, the principle of the derivation of the right to use natural resources from the right of ownership reveals the right to use natural resources, which consists of realizing the proprietary right of the natural resource owners, primarily the state as the primary owner. The existence of the state and other owners' proprietary right to natural resources presupposes such an organization of the natural resources uses when the right to use the latter is granted to other entities – legal entities and individuals subject to certain conditions (Cropper & Oates, 1992; Brooke & Rayment, 1999).

One of the primary legal forms of implementation of the principle of the derivation of the right to use natural resources from the right of ownership is the permissive mechanism for the emergence of the right of the unique natural resource use, the key element of which is a license to use natural resources. In its content, the owner's basic requirements are formulated, the conditions and procedures for one or another natural object use or specific types of natural object use are specified, from the moment of receiving the license (or a contract if it should be signed), the natural resource users acquire special rights and obligations.

The principle of sustainability of the right to use natural resources. The meaning of this principle lies, first of all, in providing natural resources for long-term use, thus creating conditions of stability for entrepreneurship development, guaranteeing the natural resource user's interests. The universality of this legal regulation principle lies in the legislator's determination of the period, including indefiniteness as one of the options, to exercise the right to use one or another natural object.

One of the legal forms of the principle of sustainability of the right to use natural resources is the establishment of the long-term natural resource use, the consolidation of which in the law is intended to encourage the natural resource users to express

their direct interest in the rational object use and its proper protection. Thus, the indefiniteness of the land use right enables the entities to make all the necessary improvements to the land condition (Downing & Watson, 1974; Coates, 2000).
The principle of intended use of natural resources. This principle of legal regulation of the natural resources uses lies in the legislator's permission to use natural objects strictly following the purpose they are provided. The purpose for which the land sites, subsoil areas, water bodies, and forest sites are provided for use is always necessarily fixed in the decision of a land area provision, permission for particular water use, logging, or forest usage permit. Therefore, the law considers the cases of not using a natural object according to the purpose as an offense, which serves as the basis for a license suspension or revocation.
There are two main ways to implement the principle of the intended use of the natural resource. The first way is to categorize natural resource funds and establish the primary purpose for these categories; each also has its intended use. This method is most fully expressed in land and forestry legislation. Ukraine's land fund is subdivided into the following categories per the primary purpose of land: agricultural land; residential areas; lands for industry, transport, communications, radio broadcasting, television, informatics, and space support, energy, defense, and other purposes; lands of nature conservation, nature reserve, health-improving, recreational, historical and cultural purposes; forest fund lands; water fund lands; stock lands.
The second method is expressed in the direct regulation of the corresponding types of the right to use natural objects. This approach is reflected in the legislation on the rational use and protection of subsoil, water, and wildlife, in which the intended use performs the function of differentiating the types of use of these natural objects (Epple & Visscher, 1984; Bergstrom, 1990).
The principle of payment for natural resource use. The concept of "payment for natural resource use" means collecting legislative payments for natural resources use, and payments for emissions (discharges) of pollutants into the environment, disposal of waste, and other types of the negative impact of these actions are not qualified as offenses. Along with this, payment for natural resource use is also an economic mechanism for stimulating rational natural resource management.
Considering the principle of payment, the following has to be admitted. First, even though not all types of natural resource use are paid, and that specific categories of users can exercise the subjective right to use natural resources free of charge, the principle of payment is universal since all exceptions are provided by law. Secondly, the principle of payment is implemented in the system of payments for specific types of particular natural object use. The corresponding normative legal acts regulate the procedure of the payment determining for the specific types of natural resource use and its size. Thirdly, it is also essential that in the law, the legislator directly defines the intended nature of payments, and these payments are directed to finance research and development activities and measures for the rational use, restoration, and protection of natural objects corresponding to state and regional programs (Bergstrom, 1990; Voisey & Hewett, 1999).
In our opinion, the principle of the ecosystem approach to the regulation of natural resource management is less developed in terms of being used as an instrument of legal regulation. The concept of "ecosystem", introduced into scientific circulation in 1935 by the English botanist A. Tensley to characterize the stable systemic integrity of any organisms with their habitat, has received significant development and scientific and practical application in ecology and related sciences. Among the latest, the ecosystem approach has received the most significant development in landscape ecology, which considers territorial units as integrated systems and the main object of research and practical activity to optimize natural resource management (Goodstein, 1997; Brooke & Rayment, 1999).
The current normative legal acts governing relations of natural resource management understand natural objects as complex natural formations, each of which acts as an integral component of the natural environment, interacting with all other natural components and ensuring their existence, as well as economic, environmental, and social well-being of the population.
The analysis suggests that the predominant development has received the aspect of the ecosystem approach to the legal regulation of natural resource management, which is associated with the legal requirements for the prevention, avoidance, and infliction of harm in the process of using a specific natural resource by others (adjacent) natural objects and the natural environment in general (Epple & Visscher, 1984; Coates, 2000).
The logical development of these requirements was the demand for integrated natural resource management. In the natural resource management law, the integrated use is understood as the natural resource potential of a territory in which the exploitation (extraction, withdrawal) of a particular type of natural resource causes minor damage to other natural resources and economic or other activities in general, have a minimal possible impact on the natural environment. Integrated natural resource management meets society's growing needs through resource conservation, rational non-depleting use of all-natural resources, restoration/reproduction in the interests of public health, and socio-economic development of environmental qualities affected by anthropogenic activities.

Conclusions

In general, the analysis of the current legislation allows expressing a judgment that "rational natural resource management" it as a scientifically grounded natural resource management in combination with the necessary protection measures of the natural environment, as a principle of the right to use natural resources, aimed at ensuring that environmental requirements are accounted for in the process of natural resource management. In this case, the entire system of principles of legal regulation and legal norms expressing them is aimed at the legal support of the right to use natural resources. This approach has a significant drawback since, in this case, the rational natural resource management principle acquires a rather general and declarative character, which inevitably reduces the effectiveness of its application for the legal regulation of social relations regarding nature.
It seems that a new approach to the interpretation of the rational natural resource management as a principle of law, the methodological basis of which should be the unity of the integrated and differentiated approaches with the priority development of the former, is required. On this basis, it is possible to establish a system of limits for the environmentally

legitimate behavior of law subjects to use natural resources and their specific values, outside of which effective legal regulation is impossible.

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