

ЕКОЛОГІЧНЕ ПРАВО. ЗЕМЕЛЬНЕ ПРАВО



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STATE AND PROSPECTS OF DEVELOPMENT OF THE SCIENCE OF ENVIRONMENTAL LAW OF UKRAINE IN THE CONTEXT OF EUROPEAN INTEGRATION

The science of environmental law in modern Ukraine occupies an important place in human public life and has various levels: basic, methodological, philosophical and legal, general theoretical, industry-theoretical and applied. In the context of the proposed study, environmental science is considered at the fundamental level. It must be understood as a system of knowledge and ideas about environmental law and its constituent institutions (ownership of natural resources, environmental management rights, environmental security law, environmental legal protection, legal responsibility for environmental violations, legal climate protection, etc.), the ultimate goal of which is the development of the concept of environmental law and legislation, the study of relevant theoretical and methodological problems of this branch of law and legislation, the formation of its conceptual apparatus, scientific categories used by the legislator and law enforcement agencies, analysis of environmental policy and the role of the state in the implementation of the environmental function.

The subject of environmental law science includes not only the norms and institutions of this branch of law, but also studies of environmental and legal relations regulated by other branches of legislation (environmental management, environmental tax, fee for the special use of natural resources, environmental insurance and auditing, international and European environmental community, etc.), their specificity, the reasons for the emergence, functioning and termination.

Keywords: environmental law; environmental and legal science; human rights; Association Agreement with the EU; human security; legal protection of the climate.

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Стан та перспективи розвитку науки екологічного права України в умовах євроінтеграції

Наука екологічного права в сучасній Україні посідає важливе місце в суспільному житті людини та має різні рівні: фундаментальний, методологічний, філософсько-правовий, загально-теоретичний, галузеве-теоретичний, прикладний. У контексті запропонованого дослідження еколого-правова наука розглядається на рівні фундаментальної. Її необхідно розуміти як систему знань та ідей про екологічне право та його складові інститути (право власності на природні ресурси, право природокористування, право екологічної безпеки, правова охорона довкілля, юридична відповідальність за екологічні правопорушення, правова охорона клімату тощо), кінцевою метою якої є розробка концепції екологічного права та законодавства, дослідження відповідних теоретичних та методологічних проблем цієї галузі права та законодавства, формування понятійного апарату, наукових категорій, якими користується законодавець та правозастосовні органи, аналіз екологічної політики і ролі держави в реалізації екологічної функції.

До предмета науки екологічного права належать не лише норми та інститути цієї галузі права, але й еколого-правові відносини, що врегульовані іншими галузями законодавства (екологічне управління, екологічний податок, збір за спеціальне використання природних ресурсів, екологічне страхування та аудит, міжнародне та європейське екологічне співтовариство тощо), їх специфіка, підстави виникнення, функціонування та припинення.

Ключові слова: екологічне право; еколого-правова наука; права людини; Угода про асоціацію з ЄС; безпека людини; правова охорона клімату.

Introduction. The current state of environmental law is largely characterized by existence of an extensive system of legislative and regulatory acts governing the public relations pertaining to the use of natural resources, their reproduction, environmental protection, creation of favorable conditions for human security in the environment, climate protection and environmental safety.

The study of environmental and legal issues began in the context of the idea of creating a legal mechanism for ensuring sustainable development of the state, precluding harmful environmental impacts, preventing the negative environmental and social consequences of environmental hazards, which was reflected in the Law of Ukraine “On Environmental Protection”.

At the same time, the Association Agreement between Ukraine and the EU, and the related economic transformations taking place in the Ukrainian society, i.e. the reform of socio-economic relations, constitutional reform, decentralization and reform of local self-government bodies, reform of higher education, including legal education, determine the need for modern decisions to further the development of environmental law, its impact on lawmaking and legal practice, modernization of legal education and formation of new scientific law schools.

Formulation of the problem. Modern society cannot exist without science. Humanity is on the verge of creating a virtual reality close to the reality of life, and predicting various options for an optimal evolution of society through information technologies and resources. The scientific, technical, information and technological leap of humanity over the past half-century has changed the society and human

capabilities, making adjustments in the vision of the future. Science and knowledge mean power, might, a means of sustainable progress of the contemporary society. However, in modern literature, a sufficiently cautious assumption is traced as to the possibility of formulating a comprehensive definition (concept) of science. Depending on the research context, science is understood as a social institute, a form of spiritual production, a way of knowing, a system of knowledge, activities for the production and organization of knowledge, etc. [19, p. 78].

In the scientific literature, there are differing views on the reference frame of science in human social life: science has always existed, because it is 'organically present' in the practical and cognitive activities of man; science originated in Ancient Greece in the 5th century BC, when knowledge was first combined with its rationale; the formation of science began in Western Europe in the 12th – 14th centuries and was related to updating of mathematics and research knowledge; science originated in the 16th and 17th centuries with the works of Kepler, Huygens and especially Galileo and Newton who created 'the first theoretical model of physics in the language of mathematics'; science emerged in the first third of the 19th century with the integration of research and higher education [6, p. 156].

According to the Ukrainian researchers, science as a special social institution appeared in the 17th century. Since the emergence of the first scientific societies and academies, its history has spanned three scientific revolutions. In the period of the first revolution (the 17th-18th centuries), the classical natural science was formed. The main requirement to science was achievement of a pure objectivity of knowledge. Science was quickly gaining prestige and authority, claiming, coupled with philosophy, to be the only adequate embodiment of mind. The growing authority of science brought about the emergence of the first form of scientism (knowledge, science), adherents of which absolutized the role and meaning of science.

The second scientific revolution (the late 19th – early 20th centuries) led to emergence of a new, non-classical science, which included the discovery of the electron, radio, transformation of chemical elements, creation of the theory of relativity and quantum theory, penetration into the microcosm and research on high-speeds. In the field of cognition and in the coordinates of each of the sciences, the process of differentiation intensified, resulting in an increased number of scientific disciplines and schools. The principle of relativism, the relativity of human knowledge, according to which a theory is true only in a specific system of data or coordinates, was given its relevance.

During the third scientific revolution (the middle of the 20th century – present day), science turns into a direct and fundamental productive power, the main factor of production and social life. Its link with production has become direct and inseparable; interacting with production, science has assumed a leading role and continues making discoveries, creating innovations and high technologies, new sources of energy, and new materials. The process of creating common notions, concepts, and scientific language is ongoing. During this period of advancement of science, a new general scientific picture of the world has been drawn up, the concepts

of subject and object of cognition have been re-considered, significant shifts in the methodology of cognition have been made and new epistemological strategies created [5, pp. 16–19].

Thus, regardless of the date of its origin, in the twentieth century science took a swift and powerful step, the understanding of which is still to come. The present-day science, including legal science, performs a number of functions in society that go far beyond knowledge. It plays cognitive, training, educational, information-cumulative, and practical restorative roles, as well as a crucial role in prompt creation of conditions for renovation, reform of political and legal systems, and their institutions, etc. [4; 18].

Analysis of publications. The issues of legal science, including the science of environmental law, its growing role in the current economic and social conditions, and the processes of the European integration and state-building in Ukraine have been discussed in a number of scientific publications by the Ukrainian scientists, namely: A. Getman, O. Kopylenko, Ye. Kubko, N. Kuznyetsova, M. Panov, O. Petryshyn, P. Rabinovych, V. Tatsii, Yu. Shemshuchenko, O. Zaichuk, V. Zuiev and others. Additionally, a number of legal scientific conferences – general theoretical and branch-specific, seminars and round tables have been devoted to this range of problems [1; 11; 14].

Presenting main material. The enacting clause of the Law of Ukraine “On Scientific and Scientific and Technology Activities” states that the level of scientific and technological development is a crucial factor in the progress of society, improvement of people’s well-being, their spiritual and intellectual growth. This, according to the authors of the Law, necessitates the priority of state support for the development of science as a source of economic growth and an integral component of the national culture and education, creation of conditions for realizing the intellectual potential of citizens in the field of research, scientific and technological activities, ensuring the use of the achievements of the national and world science and technology to meet social, economic, cultural and other needs.

It is this postulate which is a priority for the further development of legal science, including environmental law, in the conditions of implementing the Association Agreement with the EU. As noted by the international experts in the field of science¹, the numerous dilemmas facing many countries today seem to get increasingly similar. These include the desire to strike a balance between local and international participation in research, between basic and applied research, between the generation of new knowledge and production of marketable knowledge, between science for the benefit of the public good and science as a driving force for commercial activity.

¹ Luc Soete – Rector Magnificus of Maastricht University (the Netherlands); Susan Shneegans – the Editor in Chief of the UNESCO Science Report series (New Zealand); Deniz Erucal – independent consultant and researcher of political and economical problems in the sphere of science, technologies, innovations and sustainable development (France); Baskaran Angathevar – Associate Professor of the Faculty of Economics and Management of the National University of Malaysia in Bangi (Malaysia); Rajah Rasiah – Professor of the Faculty of Economics and Management of the National University of Malaysia in Bangi (Malaysia).

The Association Agreement has become the most ambitious document in the history of the independent Ukraine in terms of both the scope of relations that are regulated within the association and the nature of reforms that our country is pursuing in order to implement the Agreement. In its scope and thematic coverage, the Agreement is the most multifaceted international legal instrument in the history of Ukraine and the largest international treaty with a third country ever concluded by the EU. It outlines a new format for the relations with the EU on the principles of “political association and economic integration”. The Agreement is unique because it goes far beyond the Association Agreements concluded by the EU in its time with the countries of Central and Eastern Europe.

The Association Agreement stipulates that the parties shall foster and strengthen scientific and technological cooperation for the purpose of both scientific development and enhancing their scientific capacity to meet the national and global challenges. The cooperation shall take into account the existing framework established by the EU-Ukraine Science and Cooperation Agreement, as well as the goal of Ukraine’s progressive advance towards the EU science and technology policy and law.

The cooperation between the parties is aimed at facilitating Ukraine’s involvement in the European Research Area. This cooperation will support Ukraine in reforming and reorganizing the system of management of the sphere of science and research institutions in order to promote the development of a competitive knowledge-based society.

Cooperation in the field of science shall be ensured by: exchanging information on the parties’ science and technology policies; participation in the EU Horizon 2020 Framework Programme for Research and Innovation; joint studies of activities aimed to promote scientific progress, transfer of technologies and know-how; training through the implementation of exchange programs for researchers and specialists; organizing joint events devoted to scientific and technological development issues; taking measures aimed at developing favorable conditions for research and introduction of new technologies; adequate safeguard of intellectual property and research results; intensifying regional and other forms of international cooperation, in particular in the Black Sea context and within multilateral organizations such as the United Nations Educational, Scientific and Cultural Organization, the Organization for Economic Co-operation and Development, and in the context of multilateral agreements, e.g. the United Nations Framework Convention on Climate Change; exchange of experience in research institutions management with a view of improving their capacity to participate in research.

The said provisions of the Association Agreement in the field of scientific cooperation are strategic for the legal science of Ukraine. However, it is important to minimize the risks of politicization and administration of science, which is frequently referred to in the legal literature. Thus, according to some Ukrainian and foreign scholars, legal science is lagging behind the reality. Problem-solving initiatives no longer come from lawyers. It is also unprecedented that today’s legal science has lost its primacy in rulemaking. The experience of law enforcement is increasingly

indicative of the legal practice disconnection from the theoretical branches of jurisprudence, which reduces the instrumental value of the real state of law [13, p. 31]. In addition, an assumption is put forward that representatives of the scientific legal community not only give up their positions of opinion leaders, conceding those to politicians, but are even cast aside by the officials of legal departments within their own corporation, which prompts legislators to engage in inadequate law-making compilations of foreign legal sources [10, p. 182].

In the legal literature, scholars attribute this situation to a high level of politicization of the legal environment, and science which is its reflection [12, p. 362]. The safeguard against it could be a model formulated by V. Tatsii who suggested that legal science should be exempt from excessive abstractness, methodologically updated and practically oriented. Every scientific study in the field of jurisprudence, especially in branch-related and applied problem range, should be aimed at fulfillment of specific scientific tasks, obtaining practical results, directly associated with the practice of law-making or enforcement [15, pp. 571–572].

Discussing the guides for legal science development and its horizons at the present stage, most experts tend to think about the complexity and multi-vector nature of this issue. In particular, it is suggested that the primary task of legal science should be provision of adequate legal regulation of relations in society, creating conditions for their dynamic and effective development. Legal science is entrusted with a responsible mission: keeping in mind the forecasts of further development of the relevant relations, to monitor the prospects for improvement of the existing legal norms and the legislative system in general. It is a strategic task [9, p. 15].

According to V. Tatsii and O. Petryshyn, legal science is at its reforming and development stage which reflects the experience and tasks of scientific forecasting and support for building the foundations of a legal, social, democratic state and the national legal system. This corresponds to the European standards of the legal system and exercise of state power, the rule of law in the functioning of various social relations, and protection of human rights. In this context, the issues of legal support for certain directions of the constitutional reform are raised, in the first place: decentralization, ensuring the rights of territorial communities to form local self-government bodies; regulating the authority and effective interaction of local state bodies and local self-government bodies; judicial and legal reform aimed at improving the efficiency of the courts, legal safeguards of the principle of court and justice independence; bringing all the law enforcement and judicial mechanisms in line with the European standards [17, p. 10].

Some scholars believe that an in-depth treatment of these issues leads to the need for scientific substantiation of the contemporary legal phenomena and social tendencies, characterized by both positive well-organized and negative disorganized aspects. It is necessary to have qualitatively new sets of definitions and categories, an increased conceptual quintessence of science, profound research strengthened with monographs that should be supported and appropriately financed by social clients (private businesses, public institutions, civil society, etc.).

It is legal science that, based on the principles of objectivity, rejection of political bias, independence of legal thought and research results, should give the society a new moral and ethical impetus, base all the legal life in the country on the rule of law when the person becomes the greatest social value [8, p. 18].

As E. Kubko puts it, science should, in the first place, get rid of its obvious shortcomings and negative phenomena, such as unscrupulous scientific expertise, primitive comments on legislation, impotent copying of the same ideas, negligence of scientific supervisors, and to crown it all, the language and reference flaws of research (a lack of skills in using the European languages, etc.). Yet, these tasks are but the surface layer [8, p. 17].

In this sense, a vitally important opinion was expressed by V. Tatsii who proposed, aiming to enhance the role of legal science in addressing state-building challenges, to create a nationwide concept of legal science development in Ukraine – both at large and regarding its main directions: theoretic-historical, state and legal, civil law, criminal law, etc., with identification of their most pressing fundamental and specific problems [16, p. 680].

When considering the issues of the science of environmental law in the current dimension of Ukraine's existence and development as a European-oriented state, it should be understood that being an integral part of legal science, it occupies an important place in the people's social life and has different levels: fundamental, methodological, philosophical and legal, general theoretical, branch-specific theoretical, and applied. In the context of the proposed study, environmental science is viewed as fundamental. It should be understood as a system of knowledge and ideas about environmental law and its constituent institutions (ownership of natural resources, law of environmental management, environmental compliance law, legal protection of the environment, legal liability for environmental offenses, legal climate protection, etc.), the ultimate goals of which are: development of the concepts of environmental law and legislation, research on the relevant theoretical and methodological problems of this field of law and legislation, formation of the conceptual apparatus and scientific categories used by lawmakers and law enforcement authorities, the analysis of environmental policy, and the role of the state in fulfillment of the environmental function.

At the same time, the Association Agreement between Ukraine and the EU, and the related economic transformations taking place in the Ukrainian society, i.e. reforming socio-economic relations, constitutional reform, decentralization and reform of local self-government bodies, reform of higher education, including legal education, determine the need for modern decisions to further the development of environmental law, its impact on lawmaking and legal practice, modernization of legal education and formation of new scientific law schools.

The subject of environmental studies, apart from the relevant norms and institutions, also includes environmental and legal relations regulated by other branches of law (environmental management, eco-taxation, charges for special use of natural resources, environmental insurance and audit, international and European

environmental community, etc.), their specificity, grounds for creation, functioning and termination.

The current state of environmental law development is largely characterized by existence of an extensive system of legislative and regulatory acts governing public relations pertaining to the use of natural resources, their reproduction, and environmental protection, creation of favorable conditions for human security in the environment, climate protection and environmental safety.

According to experts, the study of environmental and legal issues began in the context of the idea of creating a legal mechanism for ensuring sustainable development of the state, precluding harmful environmental impacts, preventing the negative environmental and social consequences of environmental hazards reflected by the Law of Ukraine “On Environmental Protection”. The scientific research, carried out after the adoption of this Law, formulated the basic principles of environmental protection coupled with the effective environmental management and standards for the natural environment quality, developed a conceptual basis for human and civil rights and responsibilities in the environmental field, and formulated the basic provisions of contractual relations in ecological relations [2, pp. 27–28].

The legislative model of the Law determined the scientific perspective of environmental law research in the new socio-economic, political, financial, environmental, cultural and educational reality of the sovereign state, elaboration of new regulatory acts in the field of natural resource ownership and nature management, environmental protection and ensuring environmental safety.

It is this law that has laid the basis for a number of monographic and dissertation studies [See: 3, pp. 15–27].

Recently, the treasury of environmental law science has been replenished with new dissertation research, including:

- Problems of codification of legislation on the use and protection of mineral resources (R. Kirin).
- The legal problems of further development of legislation on protection of the flora of Ukraine (I. Hyrenko).
- The legal principles of authorization and contractual regulation of the use of natural resources in Ukraine (N. Kobetska).
- Environmental security law as a complex sub-branch of environmental law (Yu. Krasnova)
- The theoretical and methodological principles of ownership, natural objects and their resources in Ukraine (I. Karakash).

In addition, the significant scientific results obtained in the process of researching the problems of land and agrarian law and legislation, are presented in the following works:

- Methodological principles of forming and developing the system of the agrarian law of Ukraine (M. Chabanenko).
- The legal problems of rural social development (O. Gafurova).

- Organizational and legal support for implementation of the World Trade Organization agreements in the agriculture of Ukraine (A. Dukhnevych).
- The legal problems of land protection in Ukraine (O. Vivcharenko).
- Problems of implementing the rights to land of another in Ukraine (T. Kharytonova).
- Problems of legal support for the social function of land ownership in Ukraine (I. Kostiashkin).
- The legal regulation of management and service relations in the field of land use and protection (D. Busuiok).
- The legal regime of soils in Ukraine (N. Havrysh).

Undoubtedly, the above list of research works in the field of environmental, land, and agrarian law is incomplete and does not reflect the entire palette of the existing challenges. Presently, given the fundamental provisions of the Association Agreement between Ukraine and the EU, there is an actual need for considering the following subjects: environmental legislation codification; the rule of law in the environmental legislation of Ukraine; human rights to a safe and healthy environment, general environmental human and civil rights; contractual relations in the environmental legislation of Ukraine; legal liability for violation of environmental legislation; translating the standards of the EU legislation into the national environmental legislation; the law of environmental management and its varieties; legal support for implementation of the new environmental policy strategy of Ukraine, and some others.

One of the important indicators of the formation and development of environmental law science in the modern conditions is preparation and defense of dissertations in the leading educational and scientific centers of Ukraine. The monitoring of indicators of the defended dissertations for the degrees of Doctor in Law and PhD in Law in specialty 12.00.06 – Land Law; Agrarian Law; Environmental Law; Natural Resources Law, allows us to draw some conclusions. First of all, there is a steady increase in the quantity of defended theses. According to information provided in the legal literature, over the period of 1992–2012, 5945 dissertations were defended in all legal specialties in Ukraine. Of these, 5533 dissertations were for obtaining a Candidate Degree in Law Sciences, and 412 – for LL.D. As for the specialty 12.00.06, 206 works (3.72% of the total number of defended works) were for obtaining a degree of Cand. Sc. in Law (3.72% of the total number of defended works), and 12 works (2.91% of the total number of defended works) – for Doctor in Law. In this respect, there is an interesting statistical comparison: during the period from 1975 to 1992, 88 LL.D. theses and 462 theses for a Candidate Degree in Law Sciences were defended in Ukraine [8, pp. 776–778].

As for the recent period (January 2014 - March 2019), a total of 125 dissertations were defended, of which: 110 works are for PhD in Law, and 15 works – for the Doctor in Law degree.

According to the indicators of scientific and educational institutions in which dissertation studies were carried out, the following quantitative data can be presented: Yaroslav Mudryi National Law University – 48; Taras Shevchenko

National University of Kyiv – 24; National University of Life and Environmental Sciences of Ukraine – 21; V.M. Koretsky Institute of State and Law of the National Academy of Sciences of Ukraine – 11; National University Odessa Law Academy – 11; Ivan Franko National University of Lviv – 3; Lesya Ukrainka Eastern European National University – 3; Institute of Legislative Predictions and Legal Expertise – 2; Institute of Economic and Legal Studies of the National Academy of Sciences of Ukraine – 1; Vasyl Stefanyk Precarpathian National University – 1.

By specializations (within the specialty 12.00.06), Land Law takes the lead – 41 dissertation works; Agrarian Law – 33 works; Natural Resource Law – 26 works; Environmental Law – 25 works.

In the legal literature, there are some skeptical assessments of the quality of defended dissertation research. In particular, N. Kuznetsova questions the exponential growth of the number of Doctors and PhDs in Law, reporting in their dissertations on an inseparable connection of their research with practical needs and a remarkable significance of their scientific findings [9, p. 16]. According to O. Kopylenko and O. Zaichuk, the extent to which the current legislation of Ukraine considers proposals contained in dissertation research is extremely small. In fact, there is a gap between scientific developments and the normative regulation of social relations. The analysis of dissertation abstracts shows that the choice of the area of dissertation research does not fully satisfy the needs of the modern legal science, consequently lacking new theories, concepts of state and law development that would meet demands of today's reality [7, pp. 780–781].

This tendency is characteristic of the legal science as a whole, including the relevant specializations of environmental law. This is particularly evident in a number of identical environmental law problems investigated in dissertations. As an example, we can name some of the new works that partially duplicate the existing ones: “Sources of Environmental Law of Ukraine” (2013) and “International Legal Acts as Sources of Environmental Law” (2017); “Legal protection of lands of Ukraine” (2015) and “Legal protection of lands from pollution by dangerous substances” (2018); “Legal support for the use of drinking water sources in Ukraine” (2015) and “Legal regulation of the use and protection of drinking water in Ukraine” (2015); “Legal protection of organic products from genetically modified organisms in Ukraine” (2015) and “Legal support for the use of GMO in growing agricultural plant products in Ukraine and the EU” (2016); “Securing the Rights of Citizens to Environmental Education in Ukraine” (2016) and “Legal Foundations of Environmental Education and Upbringing in Ukraine” (2018); “Purchase of land plots for public needs and for public necessity reasons” (2013), “Legal regulation of land redemption for public needs in Ukraine” (2014), and “Compulsory purchase of land in accordance with the laws of Ukraine” (2015).

Quite often, issues of environmental legal science become the subject of research in other areas of the national law – civil law, administrative law, etc. This refers to the dissertation studies conducted on environmental and legal problems, yet, within other legal research fields, for example: “Administrative and legal principles of

permitting activities in the sphere of land relations” (12.00.07); “Administrative and legal regulation of waste management” (12.00.07); “Administrative and legal principles of environmental law enforcement” (12.00.07); “Administrative and legal regulation of subsoil use in Ukraine” (12.00.07); “Administrative and legal principles of state and self-governing regulation of use and protection of defense lands in Ukraine” (12.00.07); “Personal non-property rights in the field of environmental protection” (12.00.03); “Purchase of land for public needs: civil aspect (12.00.03); “Restriction of land ownership: the civil aspect” (12.00.03); “Purchase of land for public needs or for reasons of public necessity as a ground for land ownership termination” (12.00.03).

The main disadvantage of these dissertation works is that they do not contain any new scientific results that address specific theoretical problems that would be essential for environmental science. Most of the provisions of the dissertations in question are formulated in general terms, making it impossible to see their main essence or their novelty in terms of environmental law and legislation.

In the near future, the growing tendency of the uncontrolled rate of dissertations on environmental topics, defended within other specializations (branches) of legal science, can become dangerous as seen from the perspective of the theory and methodology of environmental research.

Therefore, an important task that the scientific environmental and legal community must address urgently is to create the general climate of intolerance in the legal space towards occasional substandard products, destroy the established conceptual achievements of scientists in the sphere of environmental management and protection, ensuring environmental security, implementation of the economic and legal mechanism in the environmental field, and the constitutional guarantees of environmental human and civil rights.

Without this, environmental science cannot develop towards perfection or solve the urgent problems of the Ukrainian society, given globalization processes taking place in the modern world with a direct impact on Ukraine. These include: climate change, the destruction of the ozone layer, adverse effects on biodiversity, chemical and radioactive pollution, acid rains, desertification, reduction of natural resource potential, and other challenges [4, pp. 14–22].

Conclusions. Under the conditions of implementing the Agreement on Association of Ukraine with the EU, the promising areas for the science of environmental law should be the provision and support of:

- development of state targeted programmes for greening the branches of the national economy and human settlements, envisaging technical re-equipment, introduction of energy-efficient and resource-saving technologies, low-waste, non-waste and environmentally safe technological processes;
- implementation of environmental reorganization of the taxation system by shifting the tax burden to priority taxation of the resource flow;
- improvement of the regulatory framework for imposition of charges for natural resource consumption, based on objective rent estimates of resource performance and differentiation of payments by qualitative and spatial features;

- stimulation of investment activity and accumulation of limited investment resources through forming a public-private partnership mechanism aimed to improve the environmental situation in Ukraine and combine the market and state regulatory mechanisms;
- development of legal mechanisms for the saving and greening of energy, creation of conditions for a steady increase in the use of renewable energy – solar, wind, hydropower;
- creation of an effective mechanism for legal support in the field of natural resource potential, integrated water management, conservation and reproduction of biodiversity, protection and conservation of natural landscapes, ecological tourism and ‘green growth’ through implementation of innovative environmental and economic policies.

Environmental and legal science must be clear about its significance, providing for renewal of environmental law; a scientific concept of its development in the modern economic and social conditions; relations with other branches of law; priority areas of lawmaking in the given area of social relations for the near- and long-term prospects; the order of adoption of environmental laws, taking into account the implementation of the Association Agreement with the EU and the European economic, social and cultural vectors of state development.

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Состояние и перспективы развития науки экологического права Украины в условиях евроинтеграции

Наука экологического права в современной Украине занимает важное место в общественной жизни человека и имеет различные уровни: базовый, методологический, философско-правовой, общетеоретический, отраслевой теоретический, прикладной. В контексте предлагаемого исследования эколого-правовая наука рассматривается на уровне фундаментальной. Ее необходимо понимать как систему знаний и идей об экологическом праве и составляющих его институтах (право собственности на природные ресурсы, право природопользования, право экологической безопасности, правовая охрана окружающей среды, юридическая ответственность за экологические правонарушения, правовая охрана климата и т.д.), конечной целью которой является разработка концепции экологического права и законодательства, исследование соответствующих теоретических и методологических проблем этой отрасли права и законодательства, формирования понятийного аппарата, научных категорий, которыми пользуется законодатель и правоприменительные органы, анализ экологической политики и роли государства в реализации экологической функции.

К предмету науки экологического права относятся не только нормы и институты данной отрасли права, но и эколого-правовые отношения, урегулированные другими отраслями законодательства (экологическое управление, экологический налог, сбор за специальное использование природных ресурсов, экологическое страхование и аудит, международное и европейское экологическое сообщество и т.п.), их специфика, основания возникновения, функционирования и прекращения.

Ключевые слова: экологическое право; эколого-правовая наука; права человека; Соглашение об ассоциации с ЕС; безопасность человека; правовая охрана климата.

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