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LEGAL RELATIONS PECULIARITIES AS A SUBJECT OF LEGAL REGULATION IN THE COMPLEX LAW BRANCH

Людмила Добробог. ОСОБЛИВОСТІ ПРАВОВІДНОСИН ЯК ПРЕДМЕТ ПРАВОВОГО РЕГУЛЮВАННЯ В КОМПЛЕКСНІЙ ГАЛУЗІ ПРАВА. Предметом правового регулювання комплексних галузей права є суспільні відносини, що об'єктивно потребують і можуть бути врегульовані за допомогою норм права. Ці відносини характеризуються певними особливостями: а) вони стосуються найважливіших сфер життя суспільства; б) вони об'єктивно потребують впливу права; в) можуть бути усвідомлені суб'єктами правових відносин.

Зважаючи на подібну змістовну інтерпретацію предмета правового регулювання як обов'язкового специфічного критерію системно-структурного виокремлення галузей права у контексті формування предмета екологічного права, слід констатувати, що до недавнього часу лише незначний обсяг екологічних відносин був безпосереднім предметом правового регулювання, однак погіршення стану навколишнього природного середовища, що безпосередньо впливає на стан здоров'я населення, зумовило тенденцію до більшої урегульованості цих відносин, продемонструвавши тим самим визначальний вплив фактичного стану соціально важливих суспільних відносин на становлення правових інтересів, задля реалізації яких висувається правова ідея щодо створення нової комплексної галузі права.

Ключові слова: правовідносини, комплексна галузь права, екологічне право, правове регулювання.

Problem statement. Analysis of publications that started solving this problem. In the last two decades the tendency of emergence and development of complex branches of law: military, municipal, sports, space, medical, etc. is intensifying in Ukraine. Therefore, scientists [1-7,10,16] do not ignore the issues of the peculiarities of legal relations as a subject of legal regulation in a complex field of law, in particular in environmental one.

The article's objective – to investigate the theoretical aspects of legal relations of complex branches of law on the example of environmental law.

Basic content. As it is known, legal regulation is effective, regulatory and organizational impact on public relations which is carried out by means of a system of legal means (legal norms, legal relations, individual prescriptions, etc.) in order to regulate them (legal relations), protect and develop in accordance with the economic basis, and social needs [1, p. 289].

Legal regulation is characterized by the following features:

1. This is a type of social regulation, which has an organized and effective nature. The organization of legal regulation is achieved in the process of influencing the formally defined rules of conduct on the entities' activities. Effectiveness is characterized by the degree of the goal achievement, i.e. a certain level of social relations accomplishment.

2. This regulation is carried out by means of means specially created by the state having systemic character.

In general, the process of legal relations regulation in complex branches of law might conventionally include three stages.

The first stage is the state and legal regulation of legal relations, i.e. the development and adoption of laws and other by-laws in the area that requires appropriate comprehensive regulation. At this stage, the main measures, principles and mechanism for implementing legal policy in the appropriate legal forms should be determined.

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The second stage is the issuance of legal rights and obligations of the subjects of legal relations, which involves the transition from national prescriptions of legal norms to a specific model of practical activities of the authorized subjects of law.

The third stage of the process of state and legal regulation of legal relations of mixed type is the implementation of relevant rules of law, which establish specific directions, methods and models of state policy implementation, specification of powers of subjects, the exercise of these powers in the complex sphere of legal regulation and the fulfillment of state policy in a specific plane of public life [2, p. 7].

Let us note that legal regulation is always characterized by the presence of a clearly defined subject, method and ways.

The subject of legal regulation is public relations, which objectively stand in need of and might be regulated by means of law rules. These relations are characterized by certain features:

1. They affect the most important areas of society life.
2. They objectively stand in need of the influence of law.
3. Can be perceived by subjects.

Until recently, only a small amount of legal relations of mixed type was the subject of legal regulation, but the modernization of practical forms of life of modern developed society stipulated a tendency to a much greater settlement of these relations.

Such a trend could be clearly seen in the example of the gradual improvement of legal regulation of environmental and legal relations as a direct object of a complex lawbranch, which resulted from the introduction of a fundamentally new approach to the arrangement and interaction of structural elements of the national legal system.

In this context, it should be noted that today the subject of legal regulation in this area is public relations for environmental protection and rational use of natural resources in order to ensure the quality of the environment in the interests of present and future generations.

Environmental protection is a difficult complex issue that affects society as a whole and each individual citizen. It is about solving a vital problem - protecting and preserving the health of current and future generations of people from the harmful effects of current scientific, technical and industrial activities.

The rational use of natural resources should be the basis of economic activity of any country in modern conditions, which will ensure the protection and reproduction of natural resources. Otherwise, their depletion is possible and, as a consequence, the ecological crisis [3].

Rational use of nature is aimed at creating the conditions of human existence and obtaining material benefits, preventing possible harmful effects of human activities, maintaining the reproducibility of natural resources, ensuring environmental safety [4, p. 23].

We can note that experts in the field of environmental law indicate that environmental relations are social relationships governed by norms of environmental law, which arise, exist and are terminated in accordance with the requirements and on the grounds provided by the law. They include the following:

a) social relations related to the extraction of substances and energy from the environment. Thus, subsoil use is associated with the extraction of minerals, hunting - with the shooting and capture of wild animals, forest use - with deforestation, etc. ;

b) social relations related to the use of useful properties of a natural object. For example, agricultural land use is based on soil fertility;

c) social relations related to the applying into the natural environment of substances or energy that did not previously exist in nature or existed in small quantities. Thus, the use of subsoil is carried out for the disposal of substances and waste, atmospheric air - for emissions of pollutants, reservoirs - for fish breeding, etc. ;

d) social relations arising in connection with the transformation of a natural object. For example, in order to create parks, artificial ponds, construction of roads, etc. ;

e) public relations related to the protection of natural objects used and the environment in general. To prevent the negative impact of economic and other activities on the environment it is provided for environmental expertise, environmental monitoring, environmental control; limits on the use of natural resources are determined; environmental requirements for the location of construction, operation of industrial and other facilities; liability for violation of environmental requirements, etc. [5, p. 21].

It should be emphasized that the peculiarity of environmental relations is that they are

based on the laws of functioning not only and not so much of society, but, above all, of nature, which, of course, can not be ignored. The most obvious confirmation is the current state of the environment, which is defined as an ecological crisis. It is possible to oblige a person to plow any amount of virgin land, to dig any number of canals for desert irrigation, but it is not possible to oblige the soil to refrain from wind erosion, and the Aral Sea - from a catastrophic drop in water levels [6].

In this regard, it is necessary to consider the issue of the objects of environmental relations. The concept of objects of ecological relations is urgent for the legal definition of what the ecological and legal regulation is aimed at.

There are different approaches to the classification of objects of ecological relations in the legal literature. For example, V.V. Petrov pointed out that three categories of these objects should be distinguished:

- integrated –which is the environment,
- differentiated - these are its individual components,

- those that are subject to special protection. At the same time, ecological systems are subject to legal protection: natural, which depend on human influence (for example, in reserves); modified, changed under the influence of a human being [7, p. 35-36].

At the same time, the analysis of the current legislation of Ukraine on environmental protection allows to determine in some detail the list of objects of ecological relations:

- environment;
- natural resources;
- territories and objects subject to special protection;
- human health and life.

Thus, in accordance with Art. 5 of the Law of Ukraine “On Environmental Protection”, the environment as a set of natural and natural and social conditions and processes, natural resources, both involved in economic circulation and unused in the economy in this period (land, subsoil, water, air, forest and other vegetation, fauna), landscapes and other natural complexes are under protection and regulation of use in Ukraine. Territories and objects of the nature reserve fund of Ukraine and other territories and objects, determined in accordance with the legislation of Ukraine, are subject to special state protection. Public health and human life are also the subject to state protection against the negative impact of adverse environmental conditions [8].

The environment is all living and non-living objects that exist naturally on Earth or in some part of it (for example, the country's environment). This term includes several key components:

1. Complete units of relief that function as natural systems without significant human intervention, including all plants, animals, rocks, etc. and natural phenomena occurring within them.

2. Universal natural resources and physical phenomena that do not have clear boundaries, such as air, water and climate, as well as radiation, voltage and magnetism, which do not originate from human activity” [9].

The natural environment is considered as a defining prerequisite for human life and the functioning of ecosystems, which necessitates its preservation and protection [10, p. 157].

Natural resources are natural components and forces of nature that are used or can be used as means of production and consumer goods to meet the material and spiritual needs of society, improving the quality of life [11].

Natural resources are divided into exhaustible and inexhaustible. The first includes forest, land, water, mineral, faunal, which have the ability to decrease and disappear in the process of their consumption, the second - solar, climatic, geothermal, which do not disappear in the process of their consumption.

Exhaustive natural resources are divided into renewable (soil, plant and faunal, which in the process of use are able to recover) and non-renewable (mineral, the use of which leads to their depletion).

Thus, natural resources are:

1. Land (in the legal sense) is a surface that covers the fertile layer of soil. It gives life to plants, and through them to everything that exist on the planet, is the habitat of the microworld, a universal biological neutralizer of pollution. Land is also the main means of production in agriculture and forestry, the spatial basis for the resettlement of people, the arrangement of industrial facilities, transport routes, recreation areas, health facilities and more.

2. Subsoil is a part of the earth's crust, which is located below the land surface and the bottom of reservoirs and extends to depths available for geological study and development [12].

Regulation of environmental relations in the field of conservation and rational use of subsoil is carried out by the Constitution of Ukraine, the Subsoil Code of Ukraine, the Mining Law of Ukraine, the Law of Ukraine "On State Geological Service" and other regulations of Ukraine.

3. Waters - all waters (surface, groundwater, sea) that are part of the natural parts of the water cycle; groundwater - water below the level of the earth's surface in the strata of rocks of the upper part of the earth's crust in all physical states; surface waters - waters of various water bodies that are on the earth's surface; water object - a natural or artificially created element of the environment in which water is concentrated (sea, river, lake, reservoir, pond, canal, aquifer); water resources - the volume of surface, groundwater and seawater of the territory.

Water use - the use of water (water objects) to meet the needs of the population, industry, agriculture, transport and other sectors of the economy, including the right to water intake, wastewater discharge and other uses of water (water objects) [13].

Water relations are regulated by the Water Code of Ukraine and some other regulations of Ukraine.

4. Atmospheric air is a vital component of the natural environment, which is a natural mixture of gases located outside residential, industrial and other premises [14]. Atmospheric air is one of the main vital elements of the natural environment.

The airspace of Ukraine is a part of the airspace located above the land and water territory of Ukraine, including its territorial waters (territorial sea), and limited by a vertical surface passing along the state border of Ukraine [14].

Relations in the field of preservation, improvement and restoration of atmospheric air, prevention of pollution and its reduction, as well as the impact of chemical compounds on it, physical and biological factors are regulated by the Law of Ukraine "On Atmospheric Air Protection", Air Code of Ukraine and other regulations of Ukraine [14].

5. Flora is a set of all types of plants, as well as fungi and the groups formed by them in a certain area; wild plants - plants that grow naturally in a certain area; natural plant groups - a set of plant species that grow within certain areas and are in close interaction with each other and with environmental conditions, objects of the plant world - wild and other non-agricultural vascular plants, mosses, algae, lichens, and also fungi at all stages of development and the natural groupings formed by them. Natural plant resources are objects of the plant world that are used or can be used by the population for production and other needs [15].

Relations in the field of protection, use and reproduction of flora are regulated by the Constitution of Ukraine, laws of Ukraine "On Environmental Protection", "On Nature Reserves of Ukraine", the Forest Code of Ukraine, the Law "On Flora" and other regulations. Relations in the field of protection, use and reproduction of plants and perennial agricultural plantations are regulated by the relevant legislation of Ukraine [16, p. 155].

6. Fauna - includes a historically formed set of species of animals that live in a particular area and are part of all its biogeocenoses. Fauna, as indicated in the preamble of the Law of Ukraine "On Fauna", is one of the components of the environment, national wealth of Ukraine, a source of spiritual and aesthetic enrichment and education of people, the object of scientific research, as well as an important basis for industrial and medicinal raw materials, food and other material values.

In the interests of present and future generations in Ukraine with the participation of enterprises, institutions, organizations and citizens measures as to protect, scientifically sound, inexhaustible use and reproduction of wildlife are taken [17].

Of course, human life and health are important objects of environmental relations. Thus, in accordance with Art. 50 of the Constitution of Ukraine, everyone has the right to a safe for life and health environment and to compensation for damage caused by violation of this right. The scientific and practical commentary to the Constitution of Ukraine states that "in the most general sense, the environment is safe, which does not negatively affect human health. A more specific definition of this definition is related to the criteria of environmental safety for human life and health. Such criteria are legally established environmental standards. These include, in particular: environmental safety standards (maximum permissible concentrations of pollutants in the environment, maximum permissible levels of acoustic, electromagnetic, radiation and other harmful physical effects on the environment, maximum permissible content of harmful

substances in food; maximum permissible emissions and discharges into environmental pollutants, levels of harmful effects of physical and biological factors (Article 33 of the Law of Ukraine "On Environmental Protection") [18].

Methods of legal regulation in the complex lawfield are the means of primary influence on the behavior of subjects by giving them subjective rights and imposing on them legal obligations and prohibitions.

In general, there are three ways of legal regulation: 1. Permits - giving subjects the right to their own active actions. 2. Prohibitions - the obligation to refrain from committing certain acts. 3. Obligation - imposing on the subjects of the obligation for a certain active behavior.

All the above means are used to regulate environmental as a direct object of an independent complex branch law in the structure of the national system of legal relations. It is significant that the Basic Law of our state directly provides for environmental rights and responsibilities. Thus, in accordance with Art. 50 of the Constitution of Ukraine, everyone has the right to a safe environment for life and health and to compensation for damage caused by violation of this right [19]. Art. 66 of the Constitution includes such methods of legal regulation as prohibitions and obligations –“everyone is obliged not to harm nature, cultural heritage, to compensate for the damage caused by him” [19].

Note that some scholars point out that environmental law has the same methods of regulation as other branches of law, but there are also methods specific to this area. This is primarily a method of greening. Its use is due to the fact that any use of nature should take into account the laws of nature, obey them. In order for this to happen not spontaneously, but in an orderly manner, it is necessary to green each action related to the impact on the environment [5, p. 22].

However, this cannot be accepted, because in the theory of law the method of legal regulation is understood as a set of means and methods by which law affects public relations; it is a legal criterion that largely depends on the subject. But, unlike the subject, the method can be formed under the influence of the legislator, who, in addition to the means of regulating social relations, which objectively developed, can choose their own means of legal influence on them, combine these tools and techniques [20, p. 170]. The methods include: centralized (imperative) method, in which regulation is carried out on a power and imperative basis, the position of the subjects is characterized by relations of subordination, direct subordination; decentralized (dispositive) method when it comes to relations between equal subjects, formed on the basis of the will of their participants [21, p. 409]. In addition, this content of the method of greening is nothing more than one of the features of environmental relations, which we mentioned above.

Considering the legal regulation of public relations of mixed type, one cannot avoid the question of the types of legal regulation.

In the theory of law there are two types of legal regulation: “1. General permitting is a type of legal regulation that provides for the possibility to perform any actions, except for those which commission is expressly prohibited by law. It is expressed by the formula: “everything is allowed that is not expressly prohibited by law”. 2. Special permit is a type of legal regulation that prohibits any activity, but, at the same time, legal norms formulate specific cases of exemption from this prohibition. It is expressed by the formula: “only what is expressly provided by law is allowed” [22, p. 128].

To regulate complex environmental relations, lawmakers use both types of legal regulation. Let's mention at least the general and special nature management.

Conclusion. The subject of legal regulation of complex lawbranches are public relations, which have universal significance and belong to a single area of legal life, but the regulatory tools of some classical branches of law are unable to provide effective legal regulation of relevant areas of public relations, which, in turn, causes the urgent need of citizens to create a more effective legal model as part of the national legal system.

Thus, the legal regulation of public relations in a complex field of law - is carried out by the state through a system of special means of regulatory and organizational influence on legal relations of mixed type, dialectically combining public and private law components, in order to organize, protect and develop in accordance with existing and actualized in modern concrete and historical conditions of social needs.

The subject of legal regulation of complex branches of law is public relations, which objectively need and can be regulated by law. These relations are characterized by certain features: a) they relate to the most important spheres of society; b) they objectively need the

influence of law; c) can be understood by the subjects of legal relations. Given this meaningful interpretation of the subject of legal regulation as a mandatory specific criterion of system and structural separation of branches of law in the context of the formation of the subject of environmental law, it should be noted that until recently only a small amount of environmental relations was the direct subject of legal regulation. environment that directly affects the health of the population, led to a tendency to greater regulation of these relations, thus demonstrating the decisive influence of the actual state of socially important social relations on the formation of legal interests, for which the legal idea of creating a new complex branch of law. Today, the subject of legal regulation in this area is public relations for environmental protection and rational use of natural resources in order to ensure the quality of the environment in the interests of present and future generations.

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Summary

The article deals with theoretical study of the selection of specific features of legal relations of complex lawbranches on the example of environmental law. Today, the subject of legal regulation in this area is public relations for environmental protection and rational use of natural resources in order to ensure the quality of the environment in the interests of present and future generations.

Keywords: legal relations, complex lawbranch, ecological law, legal regulation.