

# LEGAL REGULATION OF ENVIRONMENTAL PROTECTION AND CLIMATE CHANGE MITIGATION TO ENSURE SUSTAINABLE ECONOMIC DEVELOPMENT

<sup>a</sup>ALLA ZEMKO, <sup>b</sup>OLHA DONETS, <sup>c</sup>MYROSLAV BURYK, <sup>d</sup>KATERYNA DENYSENKO, <sup>e</sup>ULIANA ANTONIUK

<sup>a</sup>*Lutsk National Technical University, Lutsk, Ukraine.*

<sup>b</sup>*Yaroslav Mudryi National Law University, Kharkiv, Ukraine.*

<sup>c</sup>*Vasyl Stefanyk Precarpathian National University, Ivano-Frankivsk, Ukraine.*

<sup>d</sup>*Penitentiary Academy of Ukraine, Chernihiv, Ukraine.*

<sup>e</sup>*Ivano-Frankivsk Educational and Scientific Law Institute of the National University "Odesa Law Academy", Ivano-Frankivsk, Ukraine.*

email: <sup>a</sup>femida20061@gmail.com, <sup>b</sup>olya.donets@gmail.com, <sup>c</sup>mir23.lviv@gmail.com, <sup>d</sup>pkv\_25@ukr.net, <sup>e</sup>antoniuk.ulyana@gmail.com

**Abstract:** In view of the globalisation of sustainable development and environmental protection, the optimization of the legal regulation mechanism in the field of environmental protection, based on the principles of public administration and the priority of greening all spheres of life, is an urgent issue nowadays. The purpose of the academic paper is to analyse the issues of legal regulation of Ukraine's "green" course development, to highlight the major trends and to identify promising areas for optimizing legal regulation in the area under study. It has been proven that the conceptual fundamentals of the administrative and legal mechanism for achieving the goals of sustainable environmental development are positioned in the functionality of elaboration and practical implementation of regulations on environmental issues on the basis of publicity of publicity and transparency, accompanied by the intensification of digitalization processes. The practical role of the research results is seen in the possibility of their use as recommendations for optimizing the legal support of Ukraine's environmental policy in terms of adaptation of Ukraine's national legislation to the European Green Deal.

**Keywords:** regulatory and legal regulation, legal relations, sustainable development, ecologization, rational environmental management, sustainable economic development, economic security.

## 1 Introduction

Given the priority of the European integration process, the problematic aspects of implementing the regulatory framework for sustainable development in Ukraine require priority attention. The main task of the modern legal system in the environmental sphere is to develop mechanisms for converging the interests of the state, business and community regarding the "green" course of development and defining the boundaries of strict responsibility for environmental protection, climate change and sustainable development.

A significant number of works by modern scholars are devoted to studying the legal support of the national environmental sphere. Researchers (Kupchenia & Sivtsova, 2023) argue that the main functionality of environmental regulation is the position of a social regulator to meet social needs and interests, ensure the sustainable environment and progressive development towards decarbonization.

Some scholars (Duliba et al., 2021) note that the priority vector of national environmental policy, which requires relevant legal support, is combating climate change. The legal acts regulating the implementation of the national climate change mitigation policy in the current conditions are actively criticized by scientists (Manko, 2021; Kruglov, 2023) since they do not fully reflect the realities of today. According to modern analysts (Muravyova, 2022), improving national legislation on climate change prevention and sustainable development, and adapting it to international and European standards are positioned as priority measures within the framework of the European integration direction. At the same time, some scholars (Holovach, 2022) believe that the primary problem in the field of research is the actual lack of responsibility for environmental protection, and in some cases, its extremely low level. Meanwhile, researchers (Chervinska & Chervinska, 2022) characterized the phenomenon of leveling environmental threats for the sake of economic effect, which takes place in modern social processes.

The general trends in the formation, testing, and improvement of Ukraine's legal policy on climate change mitigation are covered in detail in the scientific works of individual scholars (Buryk & Lysachok, 2020), based on the analysis of relevant international legal acts and national legislation. Particular issues related to the implementation of the concept of sustainable development have been studied within the framework of national jurisprudence (Kirin, 2022; Bilovitska, 2023). At the same time, the ways to optimize the legal regulation of the environmental sphere in the current realities are not sufficiently developed. Algorithms for solving the identified problems of the research area, such as insufficient funding, unstable regulatory environment and insufficient public participation, remain poorly explored and, therefore, require further studies.

The purpose of the present academic paper is to study the legal regulation aspects and the formation of the boundaries of responsibility for environmental protection, climate change and sustainable development in Ukraine, with the identification of relevant ways for optimization.

## 2 Literature Review

The theoretical basis of the research is based on the results of scientific developments of the scientific community in the interdisciplinary concept. The issue of choosing vectors for reforming the structure of the algorithm for legal support of sustainable development goals in Ukraine is studied in the works of a number of modern scholars (Korolchuk, 2022).

The fundamental principles of the formation and development of Ukrainian legal policy in the field of climate change are described in the scientific works of several scholars (Skjærseth, 2021; Sikora, 2021), whose conclusions actualize the study of the features of forming and developing legal policy in the field of climate change. At the same time, special attention should be paid to the studies (Chan et al., 2020), which advocate the viewpoint that the substantiation of the systemic concept of sustainable development based on the "green" economic course is considered impossible without the formation of European-style regulatory support. The scholars justify this standpoint by the fact that the European legislative framework is positioned as an effective regulator of legal relations, establishing strict levels of responsibility.

The scientific developments in this area include the research materials of scientists (George et al., 2021; Ruggerio, 2021; Sands, 2023), which study the basic legal acts developed and introduced as part of the implementation of international commitments to combat climate change. A significant contribution to the scientific substantiation of the outlined issues in terms of criticism was made by some representatives of the modern scientific community (Rehbinder & Stewart, 2020). First and foremost, the scientists describe in detail the significant shortcomings of the mechanism of legal support for climate change prevention. A detailed analysis of the phenomenon under study is conducted by scientists (Zhang & Li, 2022), who consider legal regulation to be an effective tool to stimulate the practical implementation of decarbonization projects, sustainable management and effective environmental policy.

Despite the significant achievements of the modern scientific community in this area, the potential for practical optimization of the legal framework of the environmental development management system remains unexplored. The vectors for improving the regulatory framework in this area have not been sufficiently developed, and, therefore, require further studies.

## 3 Methods

The methodological basis of this research is based on special and general scientific methods. The dogmatic method made it

possible to clarify the essence of legal regulations on environmental protection. The methods of analysis, deduction and generalization were used to analyze the fundamental doctrines of the issues under study. The comparative legal method was used to study the world's experience in ensuring the sustainable environment, including by stimulating the introduction of resource-saving technologies. The method of dialectical research allowed fulfilling the analysis of definitions. The system-functional method made it possible to analyze the scientific literature containing certain aspects of the methodology for improving regulatory support and legal regulation in the environmental sphere.

#### 4 Research results

The issues of climate change and ensuring the sustainable environment are in the focus of attention of both the international community and Ukraine in particular. Minimizing greenhouse gas emissions and other decarbonization measures, switching to renewable energy sources, and prioritizing green investment are just some of the measures, the execution of which at the national level indicates the implementation of the sustainable development course.

Ukraine is positioned as an active participant in international climate policy, and, therefore, is interested in developing an effective legal policy in the environmental sphere. At the same time, the effectiveness of the decarbonization policy depends on the quality of implementation of international climate agreements and the harmonization of the Ukrainian one with them.

The institution of environmental and legal liability is positioned as a mandatory component of the mechanism for legal regulation of social relations in the country, encouraging responsible environmental management, strategic environmental policy, and sustainable decarbonization. At the same time, the lack of a tradition to regularly optimize the legislative framework for managing relations in the field of environmental protection complicates the outlined issues.

The analysis of the system of Ukraine's environmental legislation shows that the environmental sphere of social relations is regulated by a significant number of legal acts, which, in general, negatively affects its perception by society, and also causes ambiguity of certain environmental provisions in the practical legal application of legal norms of laws. Such a problem is ideally solved by systematizing and codifying environmental legislation by consolidating it into a single legal document, such as the Environmental Code (Chan et al., 2020). However, as of today, the legislative authorities have not provided adequate regulatory frameworks that would guarantee the specific regulation of environmental definitions and the establishment of strict unambiguous measures of liability for environmental offenses.

The path of Ukraine's independence was marked by the stagnation of institutional models of environmental safety. The managerial paradigm in the area under study is limited directly to the development and practical implementation of regulations, neglecting the aspects of strategic planning and performance monitoring. The lack of a sequence of processes is one of the strategic problems of ensuring national environmental security. Taking into account the fact that the European "green course" for Ukraine is positioned as an integral component of the development strategy, the structure and functionality of the mechanism of legal regulation of the environmental protection sector and its functional content should reflect the practical aspects of the European environmental policy, ensuring their proper implementation.

The legal framework in the field of environmental protection in Ukraine is formed by the Constitution of Ukraine, laws, and bylaws. The harmonization of Ukraine's environmental legislation with generally accepted European norms is a requirement of the modern international order regulated by

international law. However, the choice of the form of such coordination should prioritize national interests.

On September 25, 2015, the United Nations General Assembly (UNGA) approved the Sustainable Development Goals for the period up to 2030 in the form of the Agenda. This document recognized the fight against climate change, sustainable development, clean energy, and reduction of the overall anthropogenic pressure on the environment as priority goals of sustainable development. At the same time, climate neutrality was chosen as the main goal of the European "Green Course" (George et al., 2021; Ruggerio, 2021; Sands, 2023). Furthermore, in September 2019, the Sustainable Development Goals of Ukraine for the period up to 2030 were approved, reflecting the main vectors of national sustainable development.

It is worth noting that Ukraine has a number of international legal obligations in the field of climate change. In particular, it is identified as a party to the 1992 UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement as of 2015. The latter document is an innovative legal instrument of international climate policy aimed at stabilizing the global response to threatening climate change in the context of sustainable development. Ukraine ratified the Paris Agreement on July 14, 2016, thereby securing its commitment to decarbonization.

The National Concept on State Policy on Climate Change Prevention was adopted to implement aspects of the Paris Agreement. The primary goal of this concept is the principles of phased decarbonization and the formation of relevant legal prerequisites. It is obvious that the outlined Concept is a pioneer among the documentation regulating strategic approaches to climate change prevention on a national scale.

While not minimizing Ukraine's efforts to implement a progressive legal policy on climate change mitigation, it should be noted that the existing strategy requires effective reform. The outlined trend is determined by a combination of factors, including:

- lack of a unified concept of climate change mitigation and its corresponding enshrining in the legislative field;
- pronounced inconsistency of certain legal acts regulating issues in the field of climate change mitigation;
- dualistic approach to the implementation of the Association Agreement between Ukraine and the European Union;
- unresolved legislative structure of financing sectoral projects;
- development of declarative strategic documents that do not form a system of effective algorithms for their practical implementation.

Currently, there is no unified legislative expression of the legal regime for climate change mitigation in Ukraine, and the current legal acts are characterized by the absence of a definition of climate as an object of legal protection. The Concept outlined above is the first legislative achievement in the area of climate change mitigation and implementation of the Paris Agreement in order to achieve climate neutrality. In particular, the Concept identified the main target areas of state policy, as well as the phasing and specifics of increasing resilience, minimizing risks, and preventive protection.

National efforts should focus on the interaction and convergence of environmental safety measures as a component of sustainable development. Popular changes to the legislative field are often controversial and contradict European standards. It is necessary to be guided by the fundamental principles of environmental protection, sustainability, and energy efficiency as the basis for all three areas under study: sustainable environment, climate change, and minimized pressure on the natural environment.

In 2017, the Cabinet of Ministers of Ukraine approved the Energy Strategy, which envisages the main measures for implementing energy and environmental transformation as the

basis for the sustainable development strategy until 2035. It is necessary to argue for the need to harmonize environmental law with other areas of legal support. Such a conceptual approach will provide for a systematic consideration of the issues of sustainable development, safe environment and climate change prevention. In addition, it is worth emphasizing the expediency of maximizing the share of environmental protection issues in the general legal framework. In terms of constitutional law, this approach involves the development of an ecological network and reliable protection of environmental rights. The procedure for regulating the use of natural resources can be considered in terms of commercial law. In terms of criminal law, it is worth focusing on the study of environmental crimes and liability.

The institution of legal liability for environmental offenses is characterized by frequent cases of breaking the principle of inevitability of legal liability. The problematic phenomena are the environmental and legal nihilism of society, the evasion of individual officials from imposing sanctions on violators, and the minimal significance of sanctions, which is manifested in a number of inconsistencies, dualism and contradictions in the legal framework. At the same time, despite the lack of proper attention to the institution of legal liability, the latter is positioned as one of the basic factors in ensuring environmental protection, along with economic incentives for environmentally sound economic activity and environmental taxation.

Implementation of the principle of inevitability of liability for violation of environmental legislation is one of the basic postulates of the state environmental policy's concept for the period up to 2030. Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine were adopted in 2021 in order to achieve these goals, which was the first step in ensuring the inevitability of liability for violations of environmental legislation.

In the light of the above issues, it is necessary to pay attention to the inconsistency of the legal norms governing liability for violation of environmental legislation in Ukraine with European standards, which, as a result, is positioned as the main reason for their ineffectiveness. In particular, a fine of 85-119 UAH is paid for violation of the procedure for carrying out activities aimed at artificial changes in the state of the atmosphere and atmospheric phenomena (Article 78-1 of the Code of Administrative Offenses), while the fine for similar illegal acts in Croatia is 1320-2000 EUR, and in Slovenia – from 10,000 to 20,000 EUR.

It is obvious that optimization of the environmental protection system with the involvement of the potential of administrative liability will contribute to the intensification of the preventive function of administrative penalties and liability for environmental offenses. The basic vector of the outlined optimization is a multiple increase in the amount of administrative fines for environmental violations. At the same time, there is a risk factor in terms of solvency since the amount of the fine should be in line with accepted social standards. In this regard, when improving the system of liability for environmental offenses, it is necessary to be guided not only by European practice, but also by the real social-economic situation in the country. However, the priority criterion should still be the proportionality of the damage caused to the amount of the fine.

It should be highlighted that updating the amount of fines and improving corresponding regulatory documents are prerequisites for implementing European norms of legal culpability for environmental violations into national legislation. At the same time, it should be noted that criminal sanctions are often applied in the environmental aspect of European practice, which guarantees the proper implementation of environmental legislation to the fullest extent.

An essential vector of environmental legislation stability is the elimination of inconsistencies or incorrectness in legal terminology, and the avoidance of duplication of legal norms. At the same time, the process should be based on a scientifically grounded approach to legislative creativity, involving the potential of professional developments and recommendations,

which will ultimately form a factor of balancing the content of sectorial legal norms and ensure systematic coordination of the system of regulatory legal acts.

It is evident that actively implementing the concept of sustainable development is challenging given the current martial law situation in Ukraine, but even in these challenging circumstances, it is worthwhile to consider the possibility of establishing a system of citizens' administrative responsibility to control environmental pollution. Currently, it's required to define administrative violations, update the level of accountability, and establish substantial penalties. Such small steps will make it possible to follow the course of sustainable development, increasingly implementing European requirements to the national regulatory framework of the environmental sphere.

## 5 Discussion

Regulatory support is positioned as the basis for global transformation processes towards sustainable development. The level of efficiency of legal regulation directly affects the practical effectiveness of the concept.

The science of environmental law has repeatedly considered the issue of bringing such specific objects as the climate and the ozone layer into the sphere of legal regulation (Adler, 2021; Gulluscio et al., 2020; Yan et al., 2021). According to scientists' standpoint, the object composition of environmental law is characterized by a tendency to expand, and sometimes new objects directly reflect the features of the natural environment, and sometimes – the latest integration approaches. Some contemporary researchers (Pidubna & Karakash, 2020) focus on the Law of Ukraine "On Environmental Protection", proposing amendments to the Law of Ukraine "On Environmental Protection" in terms of highlighting climate as an object of the legal field. In addition, the researchers are convinced that the Law should include a separate article on fixing and ensuring compliance with the standards of maximum permissible emissions of harmful substances that are defined as climate-forming.

Some scholars (Senn & Giordano-Spring, 2020) are convinced that the basis for optimizing the regulatory and legal support of the environmental sphere should be a rigid system of various types of liability for violations of environmental legislation. In addition, according to the researchers' viewpoint, it is necessary to stimulate the ecologization of all spheres of life by introducing a system of incentives in the legislation. Several contemporary scholars (Glicksman et al., 2023) believe that the active use of innovative technologies for the use of alternative energy sources is an instrument for regulating legal relations in the field of environmental protection that meets the goals of sustainable low-carbon development.

Some modern scholars (Gunawan et al., 2020) emphasize the need for the state to create a sufficiently clear legal framework at the national level that provides for liability for environmental damage. According to some researchers (Falcone, 2020), environmental crimes are identified as illegal dangerous actions of an environmental nature. The subject of the scientists' studies is related to the issue of corruption schemes in the field of research.

Despite the considerable scientific interest in the issues under study, further development and practical implementation of optimization measures to improve the regulatory framework in the field of environmental safety, maximum convergence of the latter with generally accepted international standards, as well as the search for ways to improve the efficiency of the national legal framework in the environmental field remain relevant.

## 6 Conclusions

The research reveals the issues of the mechanism of legal regulation of environmental safety guarantees, the concept of

sustainable development and prevention of global climate change in Ukraine in the context of globalization and European integration processes. The relevance of implementing an integrated approach to identifying the content of environmental policy has been proven.

In the course of the research, the main challenges related to the system of legal regulation of environmental protection were identified. The major aspects of the correlation between rational nature management and environmental safety have been substantiated, involving social-economic, ecological, and regulatory prerequisites, as well as the engagement of innovation potential.

In the course of the research, the essence of legal regulation of ensuring the goals of sustainable environmental development in Ukraine is considered to be a guarantee of compliance with the requirements of efficiency and transparency in the process of making managerial decisions and lawmaking, in terms of adaptation of Ukraine's national legislation to the European "green course".

The national system of legal regulation on climate change prevention has to be modified as a result of studying the current legislation since the idea of comprehensiveness needs to be introduced. The situation is complicated by the fact that current regulations do not provide for a legal definition of climate and measures to mitigate the effects of climate dynamics. Taking this into account, it is expedient to develop and adopt a separate sectorial law that would consolidate the legal regime for defining climate protection in line with international and European standards. The proposed concept will form the prerequisites for the legal fixation of the concept of climate as an object of legal protection, as well as the identification of responsibility for actions that potentially affect the climate.

The research highlights the necessity for empirical verification of theoretical and methodological advancements in the field of study and, based on the research findings, suggests priority topics for additional scientific exploration on the pertinent subject. The strategy for optimizing the legal framework in the field of ecology should be based on the implementation of a development strategy formed on the basis of harmonization of national environmental legislation with the European one. The need for further practical study of relevant adaptation of administrative, budgetary and criminal legislation is deemed necessary.

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