

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp
197402ZU34



CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.39

Nº 70

2021

Prevention of crimes against the environment: the experience of Ukraine

DOI: <https://doi.org/10.46398/cuestpol.3970.37>

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Abstract

General social measures for the prevention of crimes against the environment, which include general processes of economic development, science, technology, which create the possibility and increase the effectiveness of special criminological measures and, in contrast, do not directly affect but indirectly the criminogenic environment, eliminating or neutralizing the common, most significant and common causes of behavior criminal in the field of ecology. The article analyzes Ukraine's experience in the field of preventing crimes against the environment. It also analyzes the measures taken in the country aimed at the prevention of environmental crimes. A documentary methodology close to content analysis was used. It is concluded that liability for environmental crimes is an important component of the legal provision of environmental management, the restoration of ecological objects and the protection of the environment. Legislation on criminal liability for violation of the right to use a natural object was developed within the framework of the general legal rules on liability for violation of environmental legislation.

Keywords: ecological crime; crimes against the environment; ecological safety; environmental protection; experience of Ukraine.

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Prevención de delitos contra el medio ambiente: la experiencia de Ucrania

Resumen

Las medidas sociales generales para la prevención de delitos contra el medio ambiente, que incluyen procesos generales de desarrollo económico, ciencia, tecnología, que crean la posibilidad y aumentan la eficacia de medidas criminológicas especiales y, en contraste, no afectan directa sino indirectamente el medio ambiente criminogénico, eliminando o neutralizando las causas comunes, más significativas y comunes del comportamiento criminal en el campo de la ecología. El artículo analiza la experiencia de Ucrania en el campo de la prevención de delitos contra el medio ambiente. También se analizan las medidas tomadas en el país encaminadas a la prevención de delitos ambientales. Se hizo uso de una metodología documental próxima al análisis de contenido. Se concluye que, la responsabilidad por delitos ambientales es un componente importante de la disposición legal de la gestión ambiental, la restauración de objetos ecológicos y la protección del medio ambiente. La legislación sobre responsabilidad penal por violación del derecho a utilizar un objeto natural se elaboró en el marco de las normas jurídicas generales sobre responsabilidad por violación de la legislación ambiental.

Palabras clave: delitos ecológicos; delitos contra el medio ambiente; seguridad ecológica; protección del medio ambiente; experiencia de Ucrania.

Introduction

Nature forms the external environment that surrounds human. It is a set of conditions that form the natural basis, the sphere of existence of mankind, while being the source of human life, well-being and prosperity. The interaction of society with nature has always been and remains the most important condition for human existence. Everything that we produce and consume is created through the use of natural resources. Therefore, the role of nature in people's lives is constantly growing. It is no coincidence that its protection is a requirement fixed at the level of the Constitution of Ukraine.

Despite the measures taken, the severity of environmental safety has not decreased. Today it is almost impossible to name such phenomena and environmental processes that have not been affected by human activities. Since the emergence of mankind, nature provides a favorable environment for its existence. However, gradually such negative phenomena as the depletion of natural resources, environmental pollution, disruption of ecological ties in ecosystems, has been creating ecological crises and other

catastrophic phenomena. One of the examples of such phenomena is the Chernobyl catastrophe, as a result of which the living of people in large areas not only of Ukraine but also of other countries, in particular, in some areas of the Republic of Belarus and Russian Federation, became impossible.

Along with economic, biological, technical, and other areas of environmental development, legal issues arise and develop in the environmental field, i.e., in the field of ecology. At the state level, regulations are adopted that establish requirements on the rational use of natural resources, environmental protection from pollution and are aimed at protecting the life and health of the population from dangerous natural phenomena, i.e., to ensure environmental safety for humans and the environment. Thus, a system of homogeneous legal norms and legal institutions is gradually being formed.

Crimes against the environment belong to the category of criminal encroachments, the social danger of which, as a rule, is not confirmed by official statistics, but is based mainly on such objective indicators that cannot be ignored or hidden (environmental degradation, ecosystem destruction, pollution environment), and authoritative expert assessments.

Environmental protection is an important function of our state. Therefore, in the Special Part of the Criminal Code of Ukraine there is a special section devoted to environmental protection. This section is entitled «Crimes against the environment» and establishes liability for the most dangerous offenses in the field of environment. Also, some general social measures are taken in Ukraine to prevent environmental crimes.

1. General social measures to prevent crimes against the environment

The task of protecting the environment from criminal encroachment can be achieved in two main ways:

1. criminal-repressive direction – the application of state coercion to the offender (punishment, correction, and re-education).
2. criminological, i.e., prevention of violation of criminal law on environmental protection and the creation of appropriate conditions that would exclude the commission of crimes of an environmental nature (prevention of environmental crime).

The social value of preventing crimes against the environment includes not only reducing the scope of criminal law, but also reducing the cost of environmental crime, i.e., reducing its harmful effects. Given the extremely high degree of public danger of crimes against the environment, the

impossibility of eliminating in many cases the consequences of criminal encroachments on the environment (environmental pollution, destruction of flora and fauna, disease, death), in our opinion, their prevention should be the priority.

Starting any theoretical research, it is necessary to first turn to the conceptual apparatus, with which you can reveal the phenomena being studied. Considering the terms used in the scientific literature to define this area of social activity, it should be noted that among criminologists there is no consensus on the use of the terms «fight against crime», «crime prevention», «impact on crime», «crime control» and other similar expressions. In our opinion, we should agree with the authors (Martsev and Maksimov, 1989), who consider the use of the term «fight against crime» not entirely successful, because it is hardly possible to «overcome», i.e., eradicate, destroy crime in general. With regard to the use of the term «prevention of crime», some scholars note, that it is hardly appropriate to apply it to a phenomenon that actually exists and is inherent in any society. In this regard, it is worth noting that the term “crime prevention” does not seem quite correct: it is impossible to prevent crime (unlike specific crimes), it can be limited, reduced. It is possible to prevent not the existing phenomenon - crime, but its specific manifestations in the conditions of place, time, etc. (Ismailov, 1990).

However, taking into account the positions of other scholars, as well as the consolidation of the term “crime prevention” in legislation, in particular Part 1 of Art. 1 of the Criminal Code of Ukraine, we consider it appropriate to use this term in our study. In the criminological literature, this concept is considered as an activity aimed at preventing the implementation of criminal intent of a particular person before the encroachment at the stages of detection of intent or preparation for crime (Pavlenko, 2005).

Considering preventive activities in the field of environmental protection, we can identify the following specific features:

1. Complexity, which finds its expression in two forms:

- a plurality of subjects of prevention, namely environmental, controlling, judicial and law enforcement agencies, whose coordinated activities are aimed at protecting the environment. In the conditions of building the rule of law in Ukraine, its protection presupposes strict fulfillment of obligations by all subjects of ecological relations and strict observance of their rights.
- a variety of measures aimed at achieving the goals of crime prevention against the environment.

2. The close correlation between the regional and national aspects of this activity, as attempts to control environmental crime in a particular region can only be limited and temporary: the environmental crisis in some areas of the country will inevitably affect the environment of other regions.
3. Significant opportunities for successful implementation of measures of a general social nature to prevent crimes against the environment.

Traditionally, in the criminological literature, preventive activity is considered as a complex concept that includes:

- national measures of social, ideological, cultural, and educational order, legislative, legal nature, which combine methods of persuasion and coercion in the fight against crime.
- activities of state bodies and public organizations related to identifying the causes and conditions of crimes and the application of measures to eliminate them, disclosure, investigation, trial of crimes, punishment of criminals, their correction and re-education; as well as the implementation of other measures due to the circumstances of the commission of specific crimes (Hetman and Kostytsky, 2012).

Some authors believe it is inappropriate to consider social measures as one of the types of crime prevention since economy, education, culture is not aimed at overcoming crime, and although overcoming the economic and spiritual crisis will help control crime, socio-economic and cultural development go far beyond criminology, and solving these problems cannot be seen as a kind of targeted crime prevention (Walters, 2010).

These general social measures to prevent crimes, in particular against the environment, are not aimed directly at eradicating the causes of environmental offenses (including crimes), nevertheless, they contribute to solving this problem by creating conditions that reduce or neutralize the impact of criminogenic factors and thus lay the foundations and form the possibility of special criminological prevention, determining its content and the rate of reduction of the number of crimes against the environment.

General social measures to prevent crimes against the environment include general processes of economic development, science, and technology, which create the possibility and increase the effectiveness of special criminological measures, and in contrast not directly but indirectly affect the criminogenic environment, eliminating or neutralizing general, the most significant and common causes of criminal behavior in the field of ecology (Avanesov, 1980).

In reality, general social prevention of crimes against the environment is a complex system, the content of which forms a set of different elements,

consisting of blocks that characterize the relevant areas of preventive activities in the field of ecology. In our opinion, depending on the nature and direction of the measures, the following blocks should be distinguished: moral and educational measures; informational measures; economic measures; technical measures; social measures; legal measures.

The group of measures of moral and educational nature are aimed at improving the environmental awareness of society as a whole and individual citizens through environmental education, environmental and legal advocacy, raising the moral and cultural level, as they determine the lawful behavior of people in various spheres of society.

The importance of environmental education is difficult to overestimate because environmental moral norms, learned from childhood, subconsciously determine human behavior, its attitude to nature. They create an invaluable baggage that allows people to navigate in difficult situations of choosing a course of action, when moral norms compensate for ignorance of the law. Environmental and legal norms are more effective if they are based on moral norms and belong to the system of internal regulators of behavior (Pogorelova, 1993).

The tasks of environmental and legal education and advocacy include acquaintance with the norms establishing responsibility for ecological offenses; clarification of the procedure for exercising legal liability; ensuring internal and external consent of people with legal means of coercion; belief in the need to prevent environmental offenses; increasing the social activity of citizens and their intolerance to these offenses (Konovalova and Matusovsky, 1994).

Environmental propaganda, which includes the publication of popular science magazines, exhibitions, posters, environmental festivals and competitions, excursions, despite the large amount of material used (including in the media), is not effective enough. This is due not only to the difficulties in obtaining environmental information, but also to the fact that global development concepts are poorly linked to the values and economic motivations of a particular person (compliance with environmental requirements should be not only prestigious but also cost-effective).

Surveys show that often environmental values do not occupy a proper place in the value orientations of an individual citizen (Vershok, 2003).

Environmental education contributes to raising the level of general education and culture, forming the necessary social base to ensure environmentally safe, sustainable development of the country, and should be considered as one of the priorities of public policy in the field of environmental protection and education. It must solve the problem of training educated young people who are able to make conscious decisions in areas of life where the problems of the individual, society and the environment are combined.

Environmental and legal education is an integral part of general education and is an independent element in improving public perceptions of environmental legislation and, in contrast to legal advocacy, provides for the following features: availability of a special educational program; permanent composition of students; the presence of a set of pedagogical tools, control over the knowledge of students.

In the legal literature, professional environmental and legal education, and non-professional education (Karakash *et al.*, 2001) are considered separately.

In the structure of non-professional environmental and legal education, the most important is the environmental and legal education of minors, the main tasks of which should include the following aspects: understanding the interdependence of all natural phenomena; belief in the inadmissibility of impunity for the release into the environment of polluting materials, both natural and artificial; the inevitability of liability for actions harmful to nature; awareness of the leading role in the economy of the concept of waste-free production and the complexity of the use of natural resources; awareness of the need to actively combat encroachments on the environment.

According to scholars, it is the legal education of minors that is a priority in terms of general crime prevention (Karakash *et al.*, 2001).

The professional component of environmental and legal education is one of the main factors determining the effectiveness of environmental activities.

After all, the application by law enforcement officials who perform their duties in the field of environmental protection of legal norms establishing liability for environmental encroachment requires a thorough knowledge of national and international environmental law, to which the relevant provisions of criminal and administrative law refer. These realities place high demands on the training of environmental lawyers, necessitate the introduction of new courses and special courses for students specializing in forestry, agriculture, land, natural resources, recreational law. An urgent problem is to improve the environmental education of professionals who are already working and whose activities are related to the impact on the environment.

According to Article 7 of the Law “On Environmental Protection” (Verkhovna Rada of Ukraine, 1991), the increase of ecological culture of society and professional training of specialists are provided by general compulsory comprehensive education and upbringing in the field of environmental protection, including in preschool institutions, in system of general secondary, vocational, and higher education, advanced training and retraining. Ecological knowledge is a mandatory qualification requirement for all officials whose activities are related to the use of natural resources and

lead to the impact on the state of the environment. Art. 9 of the mentioned law enshrines the right of citizens to receive environmental education.

Significant attention is paid to the improvement and dissemination of environmental and legal education in the “Main directions of state policy of Ukraine in the field of environmental protection, use of natural resources and environmental safety” (Verkhovna Rada, 1998). This resolution provides for the expansion of the system of environmental legal institutions, development of new curricula, improvement of methods of teaching environmental law and special courses in environmental law disciplines in modern conditions, creation of the Scientific Center of Environmental Law and Legislation for comprehensive environmental law research.

There is a link between environmental legislation, on the one hand, and the actual behavior provided for or prohibited by these regulations, on the other hand. This factor is environmental legal awareness. In our opinion, it is the ecological legal awareness of citizens, i.e., the system of spiritual reflection of legal reality in the field of ecology, which is a relatively independent element of general social prevention of environmental crime, ultimately determines its effectiveness.

The level of individual environmental legal awareness depends on the individual, his or her values, needs and interests. Various structures can be the means of forming ecological legal consciousness - television, radio, editorial offices of magazines and newspapers, other mass media, literary works, lectures, seminars, etc. It should be noted that the process of forming environmental awareness as a factor that stimulates the activity of citizens in assisting law enforcement agencies in combating environmental crime, should be carried out in close cooperation of its elements - environmental law education and advocacy (Karakash *et al.*, 2001).

When considering the structure of environmental legal awareness, there are three levels that differ in the nature and depth of reflection of reality - everyday (real), professional (systematized) and theoretical (scientific).

Professional environmental legal awareness, i.e., the idea of environmental law, which is formed in jurists, employees of environmental and law enforcement agencies, based on knowledge and practical experience of environmental legislation, in our opinion, largely determines the effectiveness of prevention of environmental offenses and crimes.

Particular attention should be paid to the formation of environmental awareness among law enforcement officers performing their duties in the field of environmental protection. The attitude of some police officers, prosecutors and courts to the case of environmental protection as secondary, common cases of unreasonable refusal to initiate criminal proceedings for encroachment on the environment or termination of already initiated cases on the grounds of insignificance of acts objects of nature and undoubtedly,

significantly reduces the effectiveness of law enforcement and preventive activities in the field of ecology (Korniyakova, 2000).

Information components of environmental crime prevention are an important factor in optimizing the state's environmental protection and improving the ecological culture of society and include measures to collect, process, evaluate information on the state of the environment, availability, prevalence, quality of natural resources (monitoring systems, natural resources), determination of ecological capacity and reproductive capacity of the environment, forecasting of changes in its condition. In addition, the information base for the prevention of environmental crime should create the necessary understanding: on the nature, intensity, prevalence, and development of determinants of environmental crime; dynamics and tendency of ecological offenses and crimes, their prevalence in the region, at the enterprises, in establishments and the organizations; means of influencing them, law enforcement practice in the field of environmental protection.

An important source of environmental information, including at the regional level, is the data of monitoring of the environment and individual natural objects. The monitoring system eliminates many factors that contribute to criminal pollution, improves the control over the behavior of officials and other persons performing duties in enterprises whose activities are associated with man-made environmental impact. Ukraine has a well-developed regulatory framework for monitoring, which emphasizes the importance of this activity for the country.

An important factor in optimizing the state's environmental protection and improving the ecological culture of society is environmental information, which can provide different levels of ecological knowledge, different depth, thoroughness depending on individual psychological characteristics, age, life experience, professional affiliation, social and moral position of the individual. Impartial knowledge leads to the formation and development of only a distorted ecological consciousness.

Solving the problems of effective environmental protection depends primarily on improving the economic situation in the country and appropriate funding for environmental protection. Considering the economic and financial component of general social prevention of crimes against the environment, it should be noted that the legal norms governing the economic mechanism of environmental protection were introduced by the Law of Ukraine "On Environmental Protection", and later were available in legislation on land, subsoil, forests, water, atmospheric air, fauna.

According to Section 10 of the Law of Ukraine "On Environmental Protection", economic measures must provide for: the relationship of economic activity of enterprises with the rational use of natural resources

on the basis of economic levers; identification of sources of funding for environmental protection measures; setting limits on the use of natural resources; setting standards for fees and payments for the use of natural resources; providing enterprises with tax, credit and other benefits in the implementation of low-waste, energy and resource-saving technologies; compensation for damages caused by violations of environmental legislation.

Economic development is directly related to the state of people's well-being, the growth of which will reduce the severity of social problems (Nekit, 2021).

The introduction of ecological and economic levers of the economic mechanism of nature management creates incentives for the rational use of natural resources, as well as additional sources of funding for environmental activities.

In Ukraine the basic elements of the economic mechanism of nature management and nature protection activity are developed and legally established. The most important of them are: the fee for pollution of the natural environment, the system of fees for the special use of natural resources, compensation for damages caused by violations of environmental legislation, etc.

Promising in this regard is the development of environmental entrepreneurship, the main directions of which in developed countries are the production of a wide range of equipment for air, gas and water purification, resource conservation, collection, processing and disposal of waste, pollution control (Oleksenko *et al.*, 2021). This also includes the production of natural food, environmentally friendly furniture, car engines, household chemicals, harmless paints and more. Many companies are engaged in the development and implementation of environmentally friendly technologies in all areas of industrial production, treatment of contaminated soil, reservoirs and groundwater, landscaping and afforestation, restoration of terrestrial and aquatic ecosystems. Other commercial entities make good money on the collection, sorting and processing of production and consumption waste.

The financial component of the economic mechanism of nature management and environmental activities is based on the system of budget planning and provides for the use of appropriate tools for both revenues and expenditures of the State budget. Analysis of the implementation of programs and measures approved by the Cabinet of Ministers of Ukraine, by central executive bodies, regional and local administrations, shows that due to the unsatisfactory state of funding, the vast majority of them are not implemented (National Institute for Strategic Studies, 2013).

To eliminate the shortcomings of the system of financing environmental activities, it is advisable, in our opinion, to apply the following measures: purposeful activity of law enforcement bodies to prevent cases of misuse of funds from the Environmental Protection Fund of Ukraine; the establishment of an independent Environmental Fund, the use of which would be controlled by representatives of various sectors of society - the executive, business, producers and the public; introduction of material incentives for greening of production activities of enterprises.

Technical measures to prevent crimes against the environment are carried out in order to move to more modern technological processes that ensure waste reduction and their maximum utilization, creation and operation of high-efficiency treatment facilities (Kovaleva, 2015).

Precautionary measures of a social nature are the development and implementation of regional social programs aimed at solving the most acute problems of depressed areas, primarily on employment, job creation, improving the efficiency of employment services, organization of proper control over the implementation of such programs.

2. General legal ways to prevent crimes against the environment

One of the central components of general social prevention of crimes against the environment is the law, which acts as an effective regulator of environmental relations in society and ensures the interests of the individual and social justice in the field of ecology.

It is known that the very publication of a normative act, the existence of a criminal law prohibition can regulate the behavior of people and is marked by a warning, restraining property. The general preventive property of criminal law is not directly manifested in the restrictions on the rights of citizens, but is a factor that affects their consciousness, will and emotions, i.e. it is perceived subjectively and restrains the negative manifestations of the person. The effectiveness of this influence largely depends on the effectiveness of the application of criminal law. Today, the statement that has been repeatedly expressed in the legal literature that the deterrent effect of criminal law largely depends not on the severity of punishment, but on the inevitability of liability based on legal practice (Polischuk, 2002).

Modern criminological science shows a close connection between the preventive function of criminal law and a similar function of law enforcement practice (Martsev and Maksimov, 1989). In fact, the boundary between them is quite conditional and, in our opinion, these phenomena are interdependent. Both the deterrent effect of criminal legislation on environmental protection and the practice of its application by criminal

justice bodies are part of the state policy in the field of combating crime, including environmental crime.

Considering the conditions for improving the effectiveness of the preventive effect of criminal law in the field of environmental protection, there are two main areas:

1. improvement of legislation in this area.
2. activities to acquaint the public with the rules establishing liability for environmental offenses.

Considering the first direction, it should be noted that the improvement of legislation governing various aspects of combating criminal encroachment on the environment should, in our opinion, include primarily the improvement of criminal and environmental legislation, which are the main means of implementing criminal policy in the field of environmental protection. natural environment.

The improvement of criminal legislation in this area is crucial. It is the criminal law that contains a list of socially dangerous encroachments on the environment and defines them as crimes, as well as establishes sanctions that contain a criminal threat that deters many people from committing a crime. Improvement of criminal legislation in the field of environmental protection should be understood as optimization of the Special Part of criminal legislation, i.e., such changes in its content, which will create the most favorable conditions for improving the effectiveness of preventive measures governing criminal law against environmental crime. In addition, a number of articles of the General Part of the Criminal Code of Ukraine have a preventive effect. Thus, the rules defining the concept of self-defense (Article 36 of the Criminal Code), detention of a person who committed a crime (Article 38 of the Criminal Code), extreme necessity (Article 39 of the Criminal Code), encourage citizens to actively resist and stop criminal acts.

It is expedient to dwell on the peculiarities of the preventive effect of criminal law, depending on the type of their disposition. Almost all the dispositions of the articles in the section “Crimes against the Environment” are blanket, which causes a relatively small preventive and educational effect of the articles in this section, as many of the regulations they refer to are unknown to the majority of the population. Of course, this does not apply to articles that provide for a special subject of crime, because people who perform a certain job professionally must be well aware of the relevant rules and regulations governing this type of activity.

In the current Criminal Code of Ukraine, the legislator did not provide for administrative prejudice for crimes against the environment, only naming their consequences, some of which - environmental pollution, negative impact on human health, significant damage, other serious

consequences, are evaluative categories and are set taking into account specific circumstances of the case, also based on the relevant environmental regulations. Undoubtedly, it is completely impossible and inexpedient to abandon blanket dispositions.

It is necessary to make the criminal law in the field of environmental protection clearer and more accessible to the general public. In our opinion, this can be done by improving public perceptions of legislation and codifying environmental legislation.

Considering the educational and preventive impact of criminal law on citizens, scholars note that most people find support in their own legal consciousness, others receive information that influences the motivation of actions, some refuse temptation, and those, who ignore the ban, are punished by the court. Studies in this area have shown that the dominant role in the promotion of legal knowledge, including environmental, today belongs to the media (Dovgan, 2015). It should also be noted that in periodicals and television programs more attention is paid to the practice of criminal law, giving them a sensational, detective nature. It is possible to correct the distorted perception of readers and viewers about the effect of criminal law by forming a holistic view of criminal law, which is difficult to do without explaining the relevant criminal law with the comment of a specialist. Of course, this is possible only on the pages of specialized legal publications and television programs.

3. Special criminological measures to prevent crimes against the environment

Special criminological measures to prevent crimes against the environment are systematic activities aimed at preventing the commission of individual crimes and crime prevention in general.

According to the Law of Ukraine “On Environmental Protection” (Articles 10, 16), the responsibilities for conducting environmental measures are assigned to all state bodies and public organizations.

Special criminological prevention is purposefully carried out by state bodies and public organizations, which, among other functions, are specially designed to prevent environmental and other related offenses. The implementation of this activity requires the use of special methods and tools, as well as special professional knowledge of environmental and legal nature.

Considering the system of subjects of special criminological prevention of crimes against the environment, depending on the content of functions, it is possible, in our opinion, to distinguish four groups of subjects: judicial, law enforcement, controlling and public.

The peculiarity of law enforcement activities of judicial bodies in the field of ecology, in particular courts of general jurisdiction and commercial courts, is that, firstly, they contribute to the proper resolution of cases, and secondly, affect law enforcement activities in general. Moreover, the circle of persons affected by the practice of courts is much wider than the circle of those in respect of whom a court decision has been rendered.

The precautionary role of courts of general jurisdiction is primarily to take administrative or criminal penalties against violators of environmental laws. Consideration of cases on environmental offenses requires from court employee's special knowledge and some experience in the application of environmental law (Kotelevets, 2002).

Courts assume unjustified concessions to criminals when sentencing is imposed, as a result of which bringing violators to justice and sentencing them for violating environmental legislation does not fully fulfill its punitive and preventive function.

In view of this, the proposals expressed in the scientific literature on the formation of specialized environmental courts are quite relevant. The IX UN Congress on Crime Prevention, held in Cairo, recommended that the participants of the forum study the possibility of establishing specialized environmental courts or panels of courts, forming a list of jurors in cases related to environmental protection.

Given the special status of the courts, which is the autonomy of the judiciary and the independence of judges, it would be inappropriate to talk about the coordination of courts with other subjects of preventive activity. But interaction with them can take place, in our opinion, in the following forms: mutual information on the state of crime and convictions for crimes against the environment; use of information from judicial statistics and materials of judicial practice in the development of precautionary measures; analysis of the effectiveness of measures to eliminate the causes and conditions identified during the trial of criminal cases of this category; holding joint seminars and conferences on environmental issues; participation of relevant specialists in the training of law enforcement and regulatory authorities; preparation and sending to the relevant authorities of certificates, information letters.

It should be noted that the precondition for the implementation of these measures at both the national and regional levels is, in our opinion, the analysis of judicial practice. In the regions of the Ukrainian Black Sea coast, where crimes related to illegal fishing, animal or other water extractive industries are widespread, the lack of generalizations of case law in this category is a shortcoming that reduces the effectiveness of preventive activities in this area.

In the legal literature, different views are expressed on the understanding of the concept of “law enforcement agencies” (Kotelevets, 2002). Based on the definition of law enforcement agencies as functioning in society and the state institutions and organizations, whose main task is to ensure the rule of law, fight crime and other offenses, in our opinion, law enforcement agencies in the field of environmental protection should include prosecutors, in particular, Specialized Environmental the Prosecutor’s Office, the National Police of Ukraine, the Security Service of Ukraine and customs authorities, border guards. These bodies, as well as courts of general jurisdiction, are part of the bodies of criminal justice, i.e., state institutions established to combat crime through the application of criminal laws and special criminological prevention of crimes.

The National Police of Ukraine plays a significant role in preventing crimes against the environment. Analysis of the provisions of the Law of Ukraine “On the National Police” (Verkhovna Rada, 2015) shows that the implementation of legal activities by the police on environmental protection is: detection and termination of offenses, carrying out proceedings in cases with them; bringing violators of environmental legislation to justice, and thus ensuring the implementation of nature users of their affairs, performance of duties, removal of obstacles that may interfere with this; strengthening the rule of law in this area through prevention of violations of environmental legislation (identification of causes and conditions that contribute to the commission of offenses, taking measures within their competence to eliminate them, participation in the legal education of the population); delivery, in cases and in the manner prescribed by law, and detention of persons who have committed offenses in the field of protection of natural resources and use of natural resources.

Based on this, it should be noted that the set of measures carried out by the National Police of Ukraine is quite meaningful and developed, which has a positive effect on reducing the level of offenses in the field of environmental protection.

Given the fact that crimes against the environment pose a direct and real threat to the national security of the state and society, the security authorities within their competence are also responsible for detecting, preventing, and stopping acts that affect the environmental interests of society and are social and environmental hazard. According to intelligence analysts, the quality of the environment, the rational use of biological and mineral natural resources is becoming factors of national security. Deterioration of the ecological situation begins to progress and becomes a negative factor in the processes of socio-economic development. There is an indirect and, in some cases, a direct link between environmental crises and the development of economic, social, interethnic, and territorial conflicts based on them. In the future, a long-term relationship between environmental

degradation, depletion of natural resources and uncontrolled migration processes, escalation of large-scale violence, and an increase in the number of environmental offenses is predicted.

Security forces must be focused on combating biological and technological terrorism. Biological terrorism is understood as a type of special terrorism that uses various biological objects - microorganisms, viruses, pathogens of mass infections, biological products, advances in genetic engineering, cloning, etc. - in order to cause epidemics, epizootics, dramatically weaken the body human, to change the psycho-emotional sphere of his personality. In turn, technological terrorism is understood as the use of nuclear, chemical, bacteriological weapons or its components, nuclear, radioactive, highly toxic chemicals, pathogens or capture, decommissioning of nuclear, chemical and other objects of increased hazards, life support systems of cities and industrial centers in order to achieve political, selfish and other goals (Tislenko, 2012).

It should be noted that although these crimes are not normatively related to environmental, but represent an increased environmental risk. Closely related to this is the preventive activities of security agencies to identify the preconditions for emergencies, illicit trafficking in potentially dangerous substances and materials.

Together with the customs control authorities, the security authorities implement a set of measures to block the channels of penetration into the domestic market of Ukraine from abroad dangerous to human life and health household goods, environmentally harmful industries, technologies and materials, export of strategic raw materials, as well as landfilling of hazardous waste in Ukraine. According to experts, in the field of illegal waste movement there are organized criminal structures with the participation of citizens of the former USSR, Central and Eastern Europe (Balyuk, 1997).

The preventive activity of the border guards is primarily to stop the poaching of foreign fishing vessels.

The preventive activity of the bodies of the State Emergency Service of Ukraine is to eliminate emergencies in order to ensure public safety and negative impact on the environment. The state fire supervision bodies of the State Emergency Service of Ukraine supervise industrial facilities in order to maintain a high level of their fire safety. Performing a protective function to protect forests from fires, the state fire supervision authorities ensure fire safety of logging facilities and other enterprises and organizations that perform work or carry out other activities in forests. The situation is complicated by the spread of the facts of intentional burning of forests for selfish purposes.

Implementation of environmental control is a statutory activity of state bodies and specialized formations of public environmental organizations,

aimed at monitoring and verifying compliance by legal entities and individuals with the requirements of environmental legislation, as well as the application of measures to prevent environmental offenses.

Environmental control bodies, which, unlike judicial and law enforcement agencies, perform environmental protection functions directly within the natural environment and for which the protection of the environment (or its individual objects) is the main function, have the greatest preventive capabilities.

This group of subjects of prevention of crimes against the environment should include: Ministry of Ecology and Natural Resources of Ukraine, State Agency of Forest Resources of Ukraine, State Agency of Land Resources of Ukraine, State Agency of Water Resources of Ukraine, State Sanitary and Epidemiological Service of Ukraine, State Agency of Fisheries of Ukraine, Ministry of Agrarian Policy and Food of Ukraine.

Among this group of subjects of prevention of crimes against the environment, the Ministry of Environment occupies a central place. As a specially authorized central executive body for environmental protection, environmental safety and hydrometeorological activities, the Ministry carries out its preventive activities by monitoring all activities of enterprises, institutions and organizations, as well as compliance with the protection and use of natural resources through administrative and legal methods aimed at ensuring compliance with environmental and legal requirements in the planning, location of productive forces, construction and operation of enterprises and other economic facilities.

In particular, the administrative influence on the subjects of environmental relations is carried out by: determination of conditions and granting of permission for special nature use; establishment of ecological restrictions on production activities (approval for enterprises of standards of maximum permissible emissions (discharges) of pollutants, etc.); establishment of nature protection and sanitary protection zones; control over compliance with environmental and legal requirements; restriction or cessation of production activities that become a threat to human health and the environment; application of administrative fines to violators of environmental legislation.

Unlike the Ministry of Environment, the protective functions of other regulatory bodies in the field of environmental protection are limited to one of the areas - compliance with legislation on protection and use of forests, land, subsoil, water, fauna, flora, air, nature reserves, sanitation, and epidemiological well-being of the population, etc.

Preventive activity of the bodies of the State Agency of Forest Resources of Ukraine is carried out in three main directions:

1. protection of forests from fires.
2. protection of forest strips and forests from illegal logging and damage.
3. protection of fauna of Ukraine.

Bodies of the State Agency of Land Resources of Ukraine exercise state control over the use and protection of land. The number of crimes related to pollution, damage, and misuse of land (Articles 239 and 254 of the Criminal Code of Ukraine) has a steady upward trend. The dynamics of bringing the perpetrators to justice for administrative offenses in the field of land protection, the objective side of which, except for the consequences specified in the provisions of Articles 239, 254 of the Criminal Code of Ukraine, is similar to this criminal law.

Bodies of the State Agency of Water Resources of Ukraine in accordance with paragraph 12 of Art. 16 of the Water Code of Ukraine exercise control over compliance with the modes of operation of reservoirs and water management systems, surface water quality and economic activity on the lands of the water fund of Ukraine.

State Sanitary and Epidemiological Service of Ukraine in accordance with Art. 39 of the Law of Ukraine "On Ensuring Sanitary and Epidemiological Welfare of the Population" supervises the implementation of state policy on disease prevention, monitoring the implementation of programs related to the prevention of harmful effects of environmental factors on public health and supervision of sanitary legislation (Verkhovna Rada of Ukraine, 1994).

The essence of preventive activities of regulatory authorities in the field of environmental protection is to inspect controlled objects in order to identify violations of environmental legislation, draw up acts on the results of inspections, apply precautionary measures to violators and bring perpetrators to justice (Hetman, 1999).

An important role in the prevention of crimes and other offenses related to encroachments on fishery resources is played by fishery protection bodies that are part of the State Agency of Fisheries of Ukraine.

Characterizing the current state of fisheries in Ukraine, it should be noted the growing number of poachers, frequent violations of fishing rules and unauthorized fishing, the considerable scope of the shadow business and more. The rapid growth of the number of fishing organizations complicates the control of fishing and increases the anthropogenic pressure on the fauna of reservoirs. One of the directions of nature protection activity of fish protection bodies is counteraction to concealment from the account of the actual volumes of the caught fish and sea products by fishing and other commercial enterprises.

The effective implementation of fishery protection measures is hampered by the unsatisfactory technical condition of the fleet and other vehicles of the state fish inspections, which are not updated due to insufficient funding. As rightly noted in the scientific literature and periodicals, without close cooperation with law enforcement agencies and NGOs, it is impossible to conduct large-scale fisheries, which are carried out not only on water bodies, but also on highways and local markets. Poaching of valuable fish species in the Azov-Black Sea basin, with criminal groups with the assistance of corrupt officials of state control structures, should be combated especially uncompromisingly (Chernik and Gerashchenko, 2005).

Independent public organizations, movements and parties advocating for the preservation of the environment (for clean air and water, against the nuclear threat, etc.) are playing an increasingly active role in solving important problems of Ukraine's environmental security and preventing crimes and other offenses against the environment.

An important social factor that draws the attention of the general public to security issues is the activity of numerous informal social movements and groups at the local and regional levels.

As a rule, public activities are of a recommendatory nature and are implemented in the following forms: organizational (submission of proposals to the relevant state bodies); environmental information (holding pickets, speeches in the media, environmental propaganda publishing activities); controlling (inspections of the fund's environmental objects, examinations); legislative (introduction of new bills, additions or changes to existing ones for consideration of the subjects of legislative initiative) (Tymchuk, 2016).

According to experts from the National Institute for Strategic Studies, Ukraine still lacks an effective mechanism for cooperation between NGOs, movements, parties and the government in addressing environmental security issues, which significantly reduces the effectiveness of civic initiatives. In addition, as the analysis of their program documents showed, the degree of processing and quality of program applications leave much to be desired. They do not depend on the political orientation of the parties. The measures proposed there are well developed, brought to the list of laws that need to be adopted and the development of which the parties (movements) are going to do. However, most often the constructive part of the program looks like a list of individual theses of a fairly general nature. Virtually none of them answer the question: how to solve complex environmental problems.

Conclusions

Liability for environmental crimes is an important component of the legal provision of environmental management, restoration of ecological objects and environmental protection. Legislation on criminal liability for violation of the right to use a natural object was developed within the framework of general legal norms on liability for violation of environmental legislation.

Specific features of crimes against the environment allow to consider them as an independent group of crimes, which was realized with the adoption of the current Criminal Code of Ukraine. This, as well as the position of the public concerned about the state of the environment, the number of regulations and bodies that must apply them, are optimistic. In fact, there is rather sad situation due to the presence of large-scale environmental crime in Ukraine. The effectiveness of the fight against it lies not only in the perfection, balance of criminal law, but also in the activities of environmental authorities.

The impact on criminogenic factors that determine the existence of environmental crime should be systemic, and the activities of all bodies involved should be coordinated. Only under such conditions can the processes that give rise to crimes and other offenses in the field of environmental protection become controlled and managed. Understanding this, we propose to create and implement a system of environmental justice, which would provide for comprehensive cooperation of governmental and non-governmental institutions and organizations to identify the factors that give rise to crimes against the environment, their effective prevention and adequate response.

It is obvious that the creation of a system of environmental justice in the country is a complex and long process that requires addressing a number of issues of legislative, organizational, personnel and financial support.

The need for active public participation in environmental prevention activities is obvious. The solution of many problems related to environmental protection is impossible without the appropriate attitude to these issues of public opinion and a radical active position of the broadest sections of the population. The concept of "public participation" is one of the clear signs of democratization of society. Public participation in environmental activities is of particular importance and is a necessary condition for ensuring the effectiveness of environmental policy.

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UNIVERSIDAD
DEL ZULIA

CUESTIONES POLÍTICAS

Vol.39 N° 70

*Esta revista fue editada en formato digital y publicada en octubre de 2021, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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