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State environmental policy on the issue of legal regulation of fire safety in the forests of Ukraine

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Abstract

The purpose of the research was to analyze, at the theoretical level, the state policy of organizational and legal nature on strategic issues of ensuring fire safety in Ukrainian forests. To achieve this goal, general scientific and special scientific methods of cognition were used, in particular, dialectical, logical-formal, analysis and synthesis, structural-systemic, legal-comparative, legal-formal, prognostic. The study emphasizes that the lack of approved strategic documents for the development of the forestry sector prevents the formation of a projected public policy and, therefore, creates an unresolved organizational and legal structure of governance in forestry relations in general and reduces the effectiveness of fire safety in forests. It is concluded that among the priorities for achieving the task of effective fire safety in forests are identified factors that are primarily the formation of a single interagency consensus vision of the development of the forestry sector, reflected in the Strategy for Sustainable Development of Forest Resources and, consequently, a system of rules and principles basis of the national forest policy.

Keywords: environmental law; public policies; security and society; nature; forest preservation.

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Política ambiental estatal sobre el tema de la regulación legal de la seguridad contra incendios en los bosques de Ucrania

Resumen

El propósito de la investigación fue analizar, a nivel teórico, la política estatal de naturaleza organizativa y legal sobre cuestiones estratégicas para garantizar la seguridad contra incendios en los bosques de Ucrania. Para lograr este objetivo, se utilizaron métodos de cognición científicos generales y científicos especiales, en particular, dialéctico, lógico-formal, análisis y síntesis, estructural-sistémico, legal-comparativo, legal-formal, pronóstico. El estudio destaca que la falta de documentos estratégicos aprobados para el desarrollo del sector forestal impide la formación de una política pública proyectada y, por lo tanto, crea una estructura organizativa y legal de gobernanza no resuelta en las relaciones forestales en general y reduce la eficacia de la seguridad contra incendios en los bosques. Se concluye que entre las prioridades para lograr la tarea de seguridad eficaz contra incendios en los bosques se identifican factores que son principalmente la formación de una visión única consensuada interinstitucional del desarrollo del sector forestal, reflejada en la Estrategia para el Desarrollo Sostenible de los Recursos Forestales y, en consecuencia, un sistema de normas y principios base de la política forestal nacional.

Palabras clave: derecho ambiental; políticas públicas; seguridad y sociedad; naturaleza; preservación de los bosques.

Introduction

Today, more than ever, security issues are at the forefront of the life support system of the entire world community. An important component of it is the symbiosis of «man - nature» and, accordingly, the need to implement a set of measures aimed at harmonizing these inseparable components from each other. That is why the problems of fire safety are becoming increasingly important.

These problems are closely related to the problems of economic, social, man-made and environmental security, are interconnected and interdependent. Analytical data from the annual National Report on the State of Man-Made and Natural Security in Ukraine show that the problem of saving forests from fire has become especially acute in recent years due to rising air temperatures. Forest fires, including at the United Nations level, have been identified as a major threat to humanity in the near future.

In particular, by mid-August 2019, the atmospheric monitoring system had detected more than 1,600 forest fires in Europe, which is three times more than the average for the decade as a whole (Zibtsev *et al.*, 2019).

According to the National Report on the State of Man-Made and Natural Safety, in our country on average there are about 3.5 thousand forest fires a year, destroying more than 5 thousand hectares of forest (Nacionalna dopovid, 2017). According to the Eastern European Forest Fire Monitoring Center, the annual area of fires in the forest fund of Ukraine is over 10 thousand hectares.

However, despite a number of inconsistencies in statistics presented in various sources, the only common position of experts indicates extremely threatening trends in forest fire risks, primarily related to global climate change, catastrophic rainfall, a significant share of conifers in the structure of the Wood Fund of Ukraine (40%) (Reference book of forest resources of Ukraine, 2012) long-term hostilities and a significant area of radioactively contaminated forests in our country. “Issues of organizational and legal nature of coordination and coherence of work on fire safety in forests are not only local, regional and state cooperation, but, importantly, the need for interstate coordination of joint efforts. Given the large-scale growing forest fires around the world and the significant long-term negative consequences for the entire global ecosystem, experts and the scientific community are faced with the important task of creating an effective system for combating forest fires (Gulac, 2020).

The effectiveness of such work lies, first of all, in the context of the implementation of successful foreign experience, interstate cooperation and coordinated inter-institutional cooperation.

As Ukraine is an active member of international integration processes, a signatory to many international agreements at the global level, it is responsible for implementing its commitments (in particular, among the Sustainable Development Goals to 2030 adopted in September 2015 at the United Nations Summit, one of the priorities is security), the implementation of global goals requires their incorporation into relevant strategic regulations of domestic law, including the Strategy for Fire Safety, the Strategy for Sustainable Development of Forest Resources and a number of other documents of long-term vision. should be based on common agreed state positions, taking into account the right balance between economic, social and environmental interests of society, the development and approval of which is urgently needed today (Oleksenko *et al.*, 2021).

1. Objectives

The purpose of this work is to define and substantiate the principles of state environmental policy in the field of fire safety in the forests of Ukraine.

2. Materials and methods

To achieve this goal, general scientific and special scientific methods of cognition were used, in particular dialectical, formal-logical, analysis and synthesis, system-structural, comparative-legal, formal-legal, prognostic. In particular, the application of the dialectical method allowed to study public relations in the field of fire safety in the forests of Ukraine in their unity and relationship, to identify patterns of their development, as well as to consider the dynamics of legislation in this area. Taking into account the scientific theory «the place of man in the safety of life» presented the author's model of fire safety in the forests of Ukraine and formed his own vision of a comprehensive, multilevel nature of the public system of fire safety in the forests of Ukraine.

3. Results and discussion

The role of the state in establishing the principles of development of natural resources in a safe environment for life and health of citizens is crucial. The leading place in this is occupied by the law-making function of the state, in particular the formation of normative-legal bases of administrative-legal regulation in the sphere of public relations studied by V. Pechulyak rightly stated:

The functions of implementation of forest legislation and control over its implementation are to ensure compliance by all forest owners, forest users and other entities whose activities affect the state of forests, legal norms and provisions of forest policy. The functions of the state as the owner of forests are reduced to ensuring the ecological and social value of forests, making a profit from them. The function of state support for the needs of the forestry industry includes research, vocational education and training; statistics, forest management and planning; consulting services; fire and phytosanitary control; material quality control (Pechulyak, 2011: 352).

Likewise, Gulac reports that:

Therefore, effective public administration in the field of forest relations is possible only in the presence of a comprehensive system of regulations governing these relations, the adoption and implementation of which should be based on

a balanced strategic forest policy, which should be characterized by sufficient predictability and stability (Gulac, 2020: s/p).

Protection and conservation of forests is an important state task, especially within our country, which is sparsely forested in general, as the forest fund is less than 16% of the area, and highly corrupt, especially in the field of forest relations. Currently, the level of forest protection organization in our country remains extremely low. Despite a number of optimization measures, a significant part of the problems in this area is caused, including the imperfection of legal regulation.

Currently, the sphere of forest relations is regulated by a number of normative legal acts, which, although not devoid of certain progressive theses and provisions, are still characterized by a certain contradiction and imperfection. The main ones are: laws of Ukraine: Forest Code of Ukraine (Law of Ukraine, 1994), Land Code of Ukraine (Land code of Ukraine, 2001 «On Environmental Protection» (Law of Ukraine, 1991), «On Hunting farm and Hunting» (Law of Ukraine, 2000), «On Wildlife» (Law of Ukraine, 2001), «On Basic Principles (Strategy)» State Environmental Policy of Ukraine for the period up to 2030 (Law of Ukraine, 2019); Resolutions of the Cabinet of Ministers of Ukraine: «On approval of the State target program» Forests of Ukraine «for 2010-2015» (Resolution of the Cabinet of Ministers of Ukraine, 2009) «On approval of the Regulation on state forest protection» Ukraine, 2009.

Despite the fact that some areas of forest relations have undergone significant progressive regulatory changes, but practice shows that the adoption of new regulations in the field of forest protection and use does not always help to effectively address existing problems. The reasons for the ineffectiveness of the adopted legislation, in our opinion, are the following: the lack of a unified state policy in the field of forest relations; lack of a unified strategic vision for the development of the forestry industry; absence of the head of the branch for a long time; contradictions in regulations of different levels; conflict of ecological and economic interests of society and the state; the actual priority of economic interests over environmental ones (Gulac, 2013).

Thus, the Decision of the Committee on Agrarian Policy and Land Relations of February 13, 2018 (Minutes N^o 68) «On the results of the field meeting on» Problems of forestry reform in Ukraine «identified a number of problematic issues in the forest sector that need immediate solution . However, the main problem is the lack of strategic documents for the development of the industry, which would form the projected public policy. As a result, as stated in the Decision, there is an unregulated organizational and legal structure of forest management, which is manifested in the inefficient use of forest resources (Yavorovsky and Gurzhii, 2017).

In particular, the lack of such strategic documents for forest development has a negative impact on the state of forest fire protection and, consequently, on fire safety in forests in general, as only national forest programs have been funded for a long time. As you know, the last approved State Program in the forest sector was the resolution of the Cabinet of Ministers of Ukraine:

«On approval of the State target program» Forests of Ukraine «for 2010-2015.» And the national task of ensuring fire safety in forests requires significant funding for the implementation of a set of all necessary preventive measures. In addition, rapid climate change requires the inclusion in the forest strategy of a set of measures to protect forests from fires and the adaptation of the forest sector to climate change in general.

The Forest Sector Development Strategies, which have been developed, but not adopted or implemented, already focus on this issue, which, as everyone knows, will only become relevant over time. Thus, a number of strategic vision documents remain at the Project level, in particular:

1. The Concept of Forestry and Hunting Reform of Ukraine, discussed on April 27, 2015 at the meeting of the Coordination Council at the State Forestry Agency of Ukraine;
2. Strategy of balanced development of forestry and hunting economy of Ukraine, the need for development and adoption of which is determined by the said Concept;
3. The Strategy for Sustainable Development and Institutional Reform of Ukraine's Forestry until 2022, adopted on November 15, 2017 at a meeting of the Cabinet of Ministers of Ukraine, but due to a number of comments, pressure from experts and the public, has not been implemented;
4. Program «Forests of Ukraine - 2030», the approval of which is provided by the Decree of the President of Ukraine «On additional measures for forestry development, environmental management and conservation of nature reserves» from 21.11.2017 № 381 to implement the Strategic Plan of the Organization United Nations Forest. However, even these draft regulations do not contain systemic issues in terms of the need to ensure fire safety in forests. In particular, the Strategy for Sustainable Development and Institutional Reform of Ukraine's Forestry until 2022 envisages, among other things, the need to amend the Criminal Code and the Code of Administrative Offenses of Ukraine in terms of strengthening liability for arson in natural landscapes. In addition, the State Forest Agency notes that the activities of the State Forest Protection, provided by the relevant Regulations on this service, are a combination of economic and control functions, as the functions of state forest protection are performed by individual officials of state forest enterprises (Results of the field meeting, 2018).

The State Forest Agency in this Strategy proposes the creation of the State Fund for Forestry Development and maintaining state support for the tasks. Establishment of the Fund is also provided by the Decree of the President of Ukraine dated 21.11.2017 N^o 381, the funds of which are planned to be used to finance primarily measures for reforestation, creation of protective forest belts and other protective plantations and protection (including fires) of forests, purchase of fire-fighting and forestry machinery and equipment.

Accumulation of funds is proposed to be realized at the expense of: 30% - from the rent for special use of forest resources in the part of wood harvested from felling of the main use; 25% - from the net profit (income) of state forestries; voluntary contributions of legal entities and individuals; international technical assistance; other revenues (Results of the field meeting, 2018).

In matters of fire safety in forests, it is especially important to increase the role of legal monitoring. After all, only on the basis of complete and reliable information on the practice of application of regulations it is possible to make the necessary proposals to improve legislation, improve activities (including the adoption of necessary management decisions), eliminate possible corruption in the relevant ministry.

Such work should be based on a planned basis, taking into account information and suggestions from civil society institutions and the media (Monitoring, 2011). In its ambitious plans to implement effective governance, the Government of Ukraine is working to create a modern system of local self-government that promotes the dynamic development of regions and transfers as much power as possible to the level closest to citizens - communities, including forest fire safety.

In the framework of the technical assistance project «Support to Forest Sector Reform in Ukraine» (PROFOR) in early 2018, an expert assessment of bills and recommendations for improving the relevant legislation, which states that the purpose of lawmaking is to adopt fair, effective and perfect laws as the foundation of forest relations. The basic basis for the development of quality laws is the formed state policy, which provides a holistic vision of the goals and directions of development of the forest sector. In Ukraine, unfortunately, forest policy is not defined by law. Accordingly, according to experts, the state of legislative activity in the field of forest relations is characterized by:

Lack of a systematic and planned approach; low professional level of legislative proposals; populism and declarativeness; disregard for the specifics of forest relations in the development of related legislation; inaction of the Government as a subject of legislative initiative in the development of relevant bills; low quality of legislative equipment, uncertainty of the implementation mechanism; staffing issues; lack of monitoring of adopted laws, etc. (Storchous, 2013: s/p).

The main components of solving the problem of legislative activity in the forest industry in general, which will directly affect the effectiveness of fire safety in the forests of Ukraine are: legal (adoption of forest policy, development strategies, prioritization of legislative work); organizational (short-term and long-term planning, forecasting the consequences of the adoption of bills, professional examination of submitted bills, ensuring the evaluation of the effectiveness of their adoption, coordination of legislative work of parliament and government); economic (financial and economic support of the legislative capacity of central executive bodies, expert groups on a contractual basis, staff incentives, etc.) (Storchous, 2013).

We must pay attention to the fact that the forest is a natural resource of the nation, which, first of all, having a long period of restoration (about 150 years) should be used to ensure environmental safety and the functioning of the environment as a whole. The priority of economic and economic needs over environmental ones has already led to extremely serious consequences in a number of territories of our state, violating the basic principles of ecosystem and natural environment, causing irreparable damage to natural areas and people living in them.

In particular, Article 2 of the Forest Code of Ukraine «Forest Relations» confirms our position, noting that «forest relations - public relations relating to the possession, use and disposal of forests and aimed at ensuring the protection, reproduction and sustainable use of forest resources taking into account environmental, economic, social and other interests of society» (Law of Ukraine, 1994) and somewhat contradicts the interpretation of the terms specified in Art. 1 of the Forest Code of Ukraine. Thus, in the definitions of the main legal categories of the forest sector provided for in Article 1 of the Forest Code of Ukraine, namely: «Forest plot» and «Forest land plot»

Accordingly, in our opinion, in the current realities of our country's low forest cover and other negative trends in the forest sector, in particular, due to rapid climate change, the activities of central executive bodies in forest management should be coordinated by the Cabinet of Ministers. natural resources, as the head of the central executive bodies, which is the main in the formation and implementation of state policy in the field of environmental protection. It should also be borne in mind that the activities of the State Forest Agency have long been coordinated and directed through the Minister of Ecology and Natural Resources, and in 2010 the Ministry of Agrarian Policy was entrusted with a significant part of the Ministry of Environment.

In particular, in accordance with current legislation, the Ministry of Environment approves standards for the use of forest resources, estimated felling (logging in the order of felling of the main use), approves forest management materials, approves limits on the use of hunting animals,

shooting rates, etc. Through the coordination of the State Coinspection, the Ministry of Environment exercises state control over compliance with legislation in the field of protection, conservation, use and reproduction of forest resources, flora and fauna. Performing such functions requires constant cooperation with the State Forestry Agency and enterprises, institutions, organizations belonging to its sphere of management.

In addition, the analysis of the Forest Code of Ukraine, in particular, Articles 28-29 of this Code, which define the powers of central executive bodies in the field of forestry and forestry, in particular, shows the following: duplication of the same functions various central executive bodies, including control bodies, which does not make the system of public administration in the forest sector effective; dominance in the field of forest relations, first of all, economic and economic component; extremely complex management system in the field of forest relations, primarily at the central level of executive power.

Therefore, not only Articles 28-29 of the Forest Code of Ukraine should be amended and optimized, but also, first of all, the state policy on forest relations: relations «man - forest», «natural environment - man - his needs - forest» have to experience system-forming, fundamentally different views, and hence the normative consolidation, first of all, in the system of relevant subjects of management and their interaction with each other.

Therefore, we consider it expedient to provide in the Resolution of the Cabinet of Ministers of Ukraine «On optimizing the system of central executive bodies» and other regulations, change the coordination and direction of central executive bodies, which directly performs the functions of maintaining and managing the forest fund. accordingly ensures the formation of state policy in the field of forestry to the Minister, who ensures the formation of state policy in the field of forest relations.

Conclusions

Emphasis is placed on the fact that the lack of approved strategic documents for the development of the forest sector makes it impossible to form a projected state policy, and thus creates unregulated organizational and legal management structure in forest relations in general and reduces the effectiveness of fire safety in forests in particular; and the subordination of the State Forestry Agency to the Ministry of Agrarian Policy (as it was from the end of 2010 to 2019) and not to the Ministry of Environment (Ministry of Environment) created a number of inconsistencies and contradictions in forming strategic positions in forestry relations.

Among the priorities in achieving the task of effective fire safety in forests are identified administrative and legal factors, which are as follows: the formation of a single interagency agreed vision of forest sector development, reflected in the Strategy for Sustainable Development of Forest Resources, and hence the regulatory framework, which would consolidate the principles of national forest policy; improving the mechanism of fire safety control in communal forests and self-afforested agricultural lands; institutional strengthening of forest fire protection by involving forest public inspectors, local and voluntary fire protection units in this work; improving the system of financing fire-fighting measures in forests by creating the State Fund for Forest Resources Development; development of mechanisms for ensuring fire safety in forests harmonized with international and European standards; introduction of modern innovative technologies in preventive fire-fighting measures and extinguishing forest fires; providing a network of forest roads and reservoirs; equipping all observation towers with television cameras.

Bibliographic References

- GULAC, Olena. 2013 “Certain aspects of formation of the state forest strategy: international experience” In: Princeton Journal of Scientific Review. Special issue. Post-Soviet View. Law. October. No. 4, p. 224.
- GULAC, Olena. 2020. Theoretical and methodological principles of administrative and legal support of fire safety in the forests of Ukraine: The dissertation of Dr. Yu. n.: 12.00.07 “Administrative law and process; finance law; information law”. K.: NULES of Ukraine. Kyiv, Ukraine.
- LAND CODE OF UKRAINE. 2001. Law of Ukraine of October 25. № 2768.
- LAW OF UKRAINE. 1991. On environmental protection: Law of Ukraine № 1264 of June 25. № 1264. Available Online. In: zakon.rada.gov.ua/go/1264-12. Consultation date: 08/07/2021.
- LAW OF UKRAINE. 1994. Forest code of Ukraine: Law of Ukraine of January 21. № 3852. Available Online. In: <https://zakon.rada.gov.ua/go/3852-12>. Consultation date: 08/07/2021.
- LAW OF UKRAINE. 2000. On hunting and hunting: Law of Ukraine of February 22. № 1478. Available Online. In: <https://zakon.rada.gov.ua/laws/show/1478-14>. Consultation date: 08/07/2021.
- LAW OF UKRAINE. 2001. On fauna: Law of Ukraine of December 13. № 2894. Available Online. In: <https://zakon.rada.gov.ua/laws/show/2894-14>. Consultation date: 08/07/2021.

- LAW OF UKRAINE. 2019. On the basic principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030: Law of Ukraine of February 28. N^o 2697. Available Online. In: <https://zakon.rada.gov.ua/laws/show/2697-19>. Consultation date: 08/07/2021.
- MONITORING. 2011. Monitoring of legislation on forests and wildlife: a scientific and practical guide. Institute of Legislation and Comparative Law under the Government of the Russian Federation. M.: Publishing house "Jurisprudence", pp. 322-323.
- NACIONALNA DOPOVID. 2017. National report on the state of man-made and natural security in Ukraine in 2017. Available online. In: http://www.dsns.gov.ua/.../Nacionalna_dopovid-pro-stan-tehnogennoi-ta-prirodnoi-bez. Consultation date: 08/07/2021.
- OLEKSENKO, Roman; BILOHUR, Stanislav; RYBALCHENKO, Nina; VERKHOVOD, Iryna; HARBAR, Halina. 2021. "The ecological component of agrotourism development under the COVID-19 pandemic" In: Cuestiones Políticas. Vol. 39, No. 69, pp. 870-881.
- PECHULYAK, Volodymyr. 2011. Relations in the field of forestry: organizational and legal aspects of state regulation: a monograph. National University of DPS of Ukraine. Irpin, Ukraine.
- REFERENCE BOOK OF FOREST RESOURCES OF UKRAINE. 2012. According to state forest records as of 01.01.2011. 2012. PA «Ukrderzhlis- proekt». Irpin, Ukraine.
- RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE. 2009. On approval of the State target program "Forests of Ukraine" for 2010-2015: Resolution of the Cabinet of Ministers of Ukraine of September 16. N^o 977. Available Online. In: <https://zakon.rada.gov.ua/laws/show/977-2009-%Do%BF#Text>. Consultation date: 08/07/2021.
- RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE. 2009. On approval of the Regulation on the State Forest Protection: Resolution of the Cabinet of Ministers of Ukraine of September 16. N^o 976. Available Online. In: <http://dklg.kmu.gov.ua/forest/control/uk/>. Consultation date: 08/07/2021.
- RESULTS OF THE FIELD MEETING. 2018. On the results of the field meeting on the issue: "Problems of forestry reform in Ukraine: decision of the committee on agrarian policy and land relations of February 13, 2018" (Minutes N^o 68). Available Online. In: <http://komagropolit.rada.gov.ua/uploads/documents/30108.pdf>. Consultation date: 08/07/2021.

- STORCHOUS, Oleksandr. 2013. Review of legislative activity in the field of forest relations: problems and options for their solution: Presentation. Public forest management in Ukraine: analysis of key problems and finding sustainable solutions: proceedings of the round table. Kyiv. Representation of the world bank in the framework of the technical assistance project "Promoting Forest Sector Reform in Ukraine". Available Online. In: <https://www.youtube.com/watch?v=8nVc3>. Consultation date: 08/07/2021.
- YAVOROVSKY, Pavlo; GURZHIY, Roman. 2017. "Analysis of the combustibility of forest plantations of the Boyar Forest Research Station for 2004-2016" In: Forestry and agroforestry. Vol. 131, pp. 158-164.
- ZIBTSEV, Serhiy; SOSHENSKY, Oleg; HUMENIUK, Vasul. 2019. "Long-term dynamics of forest fires in Ukraine" In: Ukrainian Journal of Forestry and Wood Science. Vol. 10, No. 3. Available Online. In: <https://nubip.edu.ua/sites/default/files/u184/13113-29360-1-sm1.pdf>. Consultation date: 08/07/2021.



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