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STRENGTHENING THE CONTROL OF ENTERPRISES WITH INDUSTRIAL POLLUTION OF ATMOSPHERIC AIR

Purpose. To analyze and assess the legal basis of the activities of enterprises that have an impact on the atmospheric air due to the result of their activities, to elaborate recommendations on improving the mechanism for monitoring and influencing the activities of such enterprises, and types of legal liability for violations of legislation in the sphere of atmospheric air protection.

Methodology. The study on problematic issues of strengthening the control of the activities of enterprises with industrial air pollution was carried out by studying and analyzing the regulatory and legal framework of Ukraine, theoretical research in the relevant sectors, analysis of official statistics on air pollution

Findings. The current legislation on the control of enterprises with industrial air pollution has been studied in the paper. Some problems and lack of proper control over the activity of enterprises with industrial atmospheric pollution were revealed.

Originality. The main ways have been formulated of influence and improvement of control over the activity of industrial enterprises, the functioning of which is connected with atmospheric air pollution: reforming the state control bodies in the field of environmental protection; strengthening public control in the sphere of environmental protection; adjustment of legislation and strengthening of the liability of the enterprises.

Practical value. The paper recommends the introduction of compulsory public participation at the stage of “monitoring compliance with the law in the activities of enterprises with industrial pollution of atmospheric air”, which will help to conduct a political dialogue on such an important issue. In order to give the necessary powers to public inspectors, it is proposed to amend the legislation in the sphere of atmospheric air protection and supplement it with the relevant norms, which will introduce mandatory training of public eco-inspectors. Also, the necessity to strengthen administrative responsibility at the stage of control over the activity of enterprises with industrial air pollution is argued. It will be relevant to strengthen administrative responsibility and to determine a fine in the amount of 50 % of losses due to being fully compensated. Thus, amendments to Article 78 and 79 of the Code of Ukraine on administrative offenses will deter relevant actors from violations of environmental legislation.

Keywords: *atmospheric air pollution, public control, legal responsibility, environmental protection*

Introduction. The main focus of the development of a democratic state has always been to create the appropriate conditions for the harmonious, balanced, and secure development and life of the people. The economic component of the implementation of the state function is important for creating an appropriate standard of living for people, which is largely provided by the functioning of industrial production of various orientations, the result of the activity of which is almost always harmful industrial factors. Pollutants that enter the air, water, and soil as a result of industrial activities are a direct threat to the life of the country's population.

The Constitution of Ukraine declares that every citizen has the right to an environment that is harmless, and safe for health and life. The right to compensation for damages and the obligation to pay damages caused by an offender is also provided for in other normative and legal acts [1].

Problematic issues in the sphere of functioning of enterprises whose activity is connected with industrial pollution of atmospheric air in conditions of threatening ecological situation are quite topical because the trend towards an increase in the recording of cases of exceeding permissible norms of atmospheric air pollution indicates the need to respond and revise the existing legal ways of regulating such legal relations.

Literature review. Analysis of scientific developments and proposals, the current legislation in the sphere of protection of atmospheric air indicates that in Ukraine there is no effective mechanism for influencing the activities of enterprises that

pollute the atmospheric air at a time when the scale of pollution has become threatening to human health, the environment and the climate as a whole.

The scientific research on the problems of the corresponding subjects was carried out by such scientists as G. V. Anisimova, G. I. Balyuk, S. A. Bogolyubov, L. Y. Galchinsky, T. V. Grigoryeva, V. K. Danilko, T. M. Zhiravetsky, S. S. V. Kniaz, N. R. Kobetskaya, O. V. Kravchenko, D. A. Laznenko, O. V. Logacheva, T. K. Overkovskaya, N. M. Opolskaya, O. A. Pogrebnoy, S. V. Sidorenko, I. R. Stakhov, A. N. Telizhenko, Y. S. Shemshuchenko, M. V. Shulga, V. V. Jurowskaya, and others.

However, the issues of strengthening the conservation and protection of atmospheric air from pollutants during the activities of enterprises, strengthening the administrative and criminal liability for atmospheric air pollution, and the introduction of mandatory public control are not sufficiently disclosed and require additional expanded and comprehensive scientific research.

Unsolved aspects of the problem. According to the Law of Ukraine “On Environmental Impact Assessment”, the environment is considered as certain functioning, activities of citizens, stateless persons, their life and health, fauna, flora, biodiversity, air and fertile soil layer, historical monuments, and other material objects or a set of these factors, cultural heritage objects, socio-economic conditions [2].

Alongside this, the content of a “safe environment” can be understood through the concept of “environmental impact” enshrined in this law as certain consequences of economic activities on the environment, which can be manifested through construction, reconstruction, modernization or re-equipment,

expansion, other actions that would essentially be an interference with the natural environment, except for activities that do not have a significant environmental impact by the criteria approved by the Criminal Procedure Code of Ukraine [3].

The Earth's atmosphere, as the envelope that surrounds us, affects us and allows us to exist, is important not only to sustain human life but also to create the necessary conditions to maintain balance on the planet, so the quality of atmospheric air and its content is important.

Not only is air necessary for human life and all living organisms, but it also requires a certain purity. The industrial activity of a certain category of enterprises changes the characteristics and properties of atmospheric air and has led to the fact that in our country there are no areas where the air would have retained its natural purity and quality, and in some industrial areas and around regional centers the state of the atmosphere is catastrophic.

Monitoring relevant activities at the level of industrial cities of Ukraine is equally important; after all, it is the residents of such cities that experience the greatest negative impact arising from atmospheric air pollution on themselves and their health [4].

Purpose. The purpose of the study is to investigate the legal basis for the activities of enterprises that have an impact on the atmosphere through the results of their activities, to analyze the mechanisms of control of such impact on the activities of such enterprises, and the types of legal liability for violations of the law in the field of air pollution control.

Tasks of study are:

- to carry out a comprehensive analysis of the effectiveness of the mechanism for monitoring the activity of enterprises that tolerate industrial pollution and liability for violations of legislation on the protection of atmospheric air;
- to analyze the regulatory and legal framework of enterprises related to industrial pollution of atmospheric air;
- based on the analysis to propose amendments to the current legislation to increase pressure on businesses that violate environmental laws including the protection of atmospheric air from the activities of enterprises with industrial pollution.

Methods. The study on the problematic issues of strengthening the control of enterprises with industrial pollution of atmospheric air was carried out by studying and analyzing:

- the normative and legal framework of Ukraine;
- theoretical research by scientists in relevant fields;
- analysis of official statistical data on the level of atmospheric air pollution in some regions of Ukraine.

Results. The Law of Ukraine "On Environmental Impact Assessment", adopted back in 2017, provided a legal and organizational framework for environmental impact assessment, which in turn were and are aimed at certain preventive activities in the pollution of atmospheric air and the natural environment as a whole, taking into account public and private interests.

This law is one of the main environmental laws since it defined the scope of environmental impact assessment. The legislator paid attention to and outlined the need for additional control over certain activities that can harm the environment.

According to category number one of certain types of planned activities and related facilities, those enterprises and activities that can objectively cause significant harm to environmental safety and the environment have been assigned; among these are oil and gas refineries, thermal power plants, enterprises and organizations associated with nuclear fuel, ferrous and non-ferrous metallurgy, chemical industry production, pharmaceuticals and some biological processes. Of course, the law prohibits committing such actions without an environmental impact assessment [2].

In other words, this is the category of enterprises and types of activities that directly affect the condition and quality of atmospheric air through industrial pollution. The second category of planned activities and facilities, under the aforemen-

tioned Act, also has a harmful effect on the air, but in a slightly different aspect; however, it is also controlled by the relevant legislation.

Legal relations of an absolute nature extend to an unlimited range of subjects, whose activities are related to industrial pollution and who must refrain from violating the right to an environment that is safe for life and health, always have a special subject composition, whose rights and obligations are correctly defined by legislation.

The development of industry and enterprise activities is critical to the growth of economic performance in the country, ensuring the normal functioning of other sectors of the national economy, providing jobs for the population, and so on. Therefore, it is impossible to fully exclude such a harmful factor as atmospheric air pollution. Compliance with tolerable levels of pollution, constant monitoring of facilities, equipment modernization, and joint activities with state controlling authorities and the public is important in industrial operations.

One of the polluters of the environment, in particular of atmospheric air, involves mining enterprises. In the oil and gas sector, in addition to emissions of pollutants and greenhouse gases into the atmospheric air, environmental risks are also associated with wastewater, tailings, accidental releases or spills of pollutants, and materials contaminated by ionizing radiation sources. The main negative impact of the oil and gas sector on the environment is caused primarily by leaks of pollutants during oil and gas production and transportation, as well as flaring and fires due to accidents during hydrocarbon leaks. In addition, we can observe the impact of the military-industrial complex on the environment, which negatively affects not only in peacetime but also during military conflicts. The main elements of environmental hazards posed by individual links in the military-industrial complex include the lack of resource-saving technologies in the production of military products, the problem of waste disposal, atmospheric pollution, land degradation, water pollution, and the problem of ammunition disposal. And taking into account the military aggression on the part of the Russian Federation both in the eastern regions of Ukraine and in the north and south, the risk of uncontrolled air pollution has increased significantly, and in some places like the Kyiv region, such pollution has already occurred. Ukraine is one of the leading ferrous metal-producing countries in the world and has a very large research and design potential in metallurgical production. This industry has been one of the largest for a very long time, our country was the third-largest producer and exporter of steel products and steel production, including Asia, the Middle East, and South America, to which more than 80 % of steel products were exported.

Of course, the location of the mining and metallurgical complex was historically associated with the presence of specific minerals in the territory concerned.

Therefore, it should be noted that it is on the territory of Kryvyi Rih and Zaporizhzhia that the greatest concentration of polluting enterprises has been concentrated over the past ten years. Accordingly, some areas were more agrarian and environmentally friendly, and some with greater industrial potential.

The activities of metallurgical enterprises in a sense are city-forming and generate significant revenues to the budgets of various levels and create a significant number of jobs, support the Ukrainian economy; however, it is the metallurgical enterprises that cause the greatest damage to the environment. The smelting of cast iron and its subsequent processing into steel results in emissions of sulfur gas, manganese, blast-furnace gas, and arsenic compounds, which is dangerous enough for the environment in general and humans directly. Based on scientific evidence within the limits of relevant legal regulations, the establishment of certain territories is stipulated by law; the presence of these territories should minimize the negative impact and make them less harmful, protective zones.

Also, pollution zones by the specific activities of enterprises are scientifically investigated and established. Logically, metallurgical industry enterprises have a pollution zone sixty kilometers from the source [5], and given the fact that in cities such as Kryvyi Rih and Zaporizhzhia industrial enterprises-pollutants are within a settlement, in a significant number of cases, the corresponding zones are not sustained.

Of course, the institution of public consciousness is developing. In recent years, we have developed both eco-protective public organizations and individual environmental activists, but, unfortunately, the public has no significant influence on solving the problem of atmospheric air pollution, and the environment is deteriorating.

Thus, the Verkhovna Rada of Ukraine adopted the Law "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030". In this, law the legislator agreed and recognized the problem of atmospheric air pollution as one of the main issues. Unfortunately, the biggest source of atmospheric air pollution is the activity of processing and extractive industries, thermal power, and transport. The main problem of air pollution in settlements is the violation of environmental legislation by business entities, the lack of modern technology, and outdated production in both form and equipment. The fighting in the east of Ukraine did not affect the solution of the ecological project in the best way, which results in a lack of control over the occupied territories. Moreover, a significant part of the material and technical base of the Donetsk and Luhansk regions has been destroyed as a result of hostilities in eastern Ukraine, which affected many factors, including compliance with environmental legislation of Ukraine and global standards, technical requirements, regulations, and technologies used in technical production.

As a consequence, we have negative changes in the environment, and risks to life and health of millions of Ukrainians [6].

In Ukraine, the main legal acts regulating the activities of industrial enterprises regarding the permissible level of atmospheric air pollution are the Constitution of Ukraine, the Law of Ukraine "On atmospheric air protection", the Law of Ukraine "On environmental protection", and other by-laws and regulations.

The facilities with a dangerous impact on the NPS, health, and life of citizens and foreigners, varieties and scales of harmful substances, varieties of the consequences of exposure to atmospheric air are subject to accounting in the field of protection of atmospheric air at the state level to control the impact on the quality and composition of atmospheric air [7].

Monitoring and verification in the field of protection of atmospheric air are carried out with the purpose of collecting information, its processing, and analysis, assessment and forecasting of its changes and the degree of danger, which will allow one to scientifically justify recommendations for the protection of atmospheric air. But it is also quite obvious that the matter of protecting atmospheric air is of both national and international significance, so it is unreasonable not to respond to the efforts of international environmental, human rights organizations, which can generalize the problem, assess the depth of the problem and the complexity of its manifestation. In such cases, the activities of these organizations, and perhaps primarily those of the World Health Organization, are of utmost importance [8].

State supervision in the field of environmental protection is carried out by the State Ecological Inspectorate of Ukraine, one of the tasks of which is in the field of protection of atmospheric air – to monitor the activities of enterprises, as a result of the activities of which there is industrial pollution of atmospheric air [9].

The basic list of the main types of violations in the area of ambient air was drawn up as early as in 2008, but it is still relevant and includes the following offenses:

- non-receipt of pollutant emission permits;
- the permissible emissions are not in conformity with the permissible limits;
- delays in the implementation of environmental protection measures;
- non-standard operation of gas purification equipment;
- failure to comply with acts of surveillance and control;
- manipulation or distortion of statistical state data or refusal to transmit timely and reliable information on the state of atmospheric air [10].

The specified list of illegal actions on atmospheric air pollution is also enshrined in the Law of Ukraine "On the Protection of Atmospheric Air", which specifies that such actions include: violation of the standards for permitted emissions of pollutants from stationary sources, exceeding the standards of pollutants in the exhaust gases of mobile sources, emissions without special permits and others.

Concerning the liability that can be applied to probable offenders, air pollutants, it should be noted that one of the four types of liability may be applied to such persons, namely administrative, property (civil or civil), criminal, and other legal liability (according to individual scholars) [7].

Liability for offenses is an effective tool for the protection of the natural environment, in particular the ambient air, and compensation for damage caused, while a properly and reasonably constructed system of legal liability and appropriate penalties creates legal incentives to prevent the commission of such offenses.

The responsibilities provided for by law must be such as compensation for harm caused and a preventive function. Compensation for damage is in fact compensation for damage caused (which is also civil liability); preventive liability is realized through administrative, criminal, and disciplinary liability [11].

The Code of Administrative Offences provides the grounds and procedure for the imposition of administrative liability for an offense in the use of atmospheric air, namely: violation of the procedure for the release of harmful substances into the air or the influence of physical and biological factors on it (Article 78); failure to comply with the requirements for the protection of air in the construction and use of facilities (Article 79). The penalty for such administrative offenses is a fine for officials of five to eight tax-exempt minimum incomes of citizens [12], the amount of which is currently insignificant.

The Criminal Code of Ukraine also provides for liability for acts aimed at polluting the air. In particular, Article 241, paragraph 1, of the Criminal Code of Ukraine provides for liability for air pollution by harmful substances or production wastes. The corresponding article provides for the possibility of imposing a fine (100–200 tax-exempt minimum incomes) and a restriction of liberty for up to three years (with or without additional punishment). Part 2 of the same article establishes responsibility for the same acts, but only if they have caused more serious consequences [13].

In establishing the criminal offense, the definition of special rules is important, in addition to subjective-objective grounds. Special rules for this criminal offense are those established in the field of ambient air protection for: a) environmental safety of ambient air; b) maximum permissible emissions for stationary sources; c) production of pollutants in the operation of buildings or equipment; r) use of ambient air as a primary production commodity; d) content of harmful substances in the gases concerned.

Violation of the legal limits of emissions into the air may be carried out in various ways, and the further qualification of the respective actions will depend on how it occurred, with what consequences, and how dangerous it is [14].

Being caused in the course of economic activity or as a result of pollution or damage to natural resources, the damage to the environment, to individual natural resources, is generally classified as extra-conventional obligations.

Property (civil) liability is incurred for damage caused as a result of the violation of legislation on the protection of the atmosphere and due to peculiarities of the object of the offense. The purpose of this type of legal liability is to restore the environment or to compensate for the damage caused by the violation of the legislation on the protection of the air. The purpose of this type of legal liability is to restore the environment or to compensate for the damage caused by the violation of the legislation on the protection of the air. More often, civil liability takes the form of damages and penalties. Civil liability for air pollution also provides for compensation for material damage caused to the natural environment, health and property of citizens, and property of legal entities. Compensation for environmental damage is voluntary or judicial. Compensation for damage may be provided in kind – by the offender eliminating the consequences of his unlawful actions at his own expense, or in monetary terms – by way of compensation for the damage caused, calculated according to a special methodology [11].

At the same time, we stress that when considering the damage, dividing, and researching, we should take action from a global environmental perspective, because living on the same planet as well as living within a single city, area, or country, we are interconnected and, therefore, are negatively affected by an adverse economic or industrial activity and, as a consequence, by the associated environmental impacts [15].

During the year 2000, the State Environmental Inspectorate inspected more than 900 enterprises and found more than 200,000 violations of acceptable emission limits.

The Dnipropetrovsk region retains a sad leadership in terms of both the number of violations and violators [16].

The State Environmental Inspectorate has prepared proposals for legislative and regulatory changes to improve the environmental situation and reduce emissions of pollutants into the atmosphere. As a result of inspections carried out in 2020 by inspectors of the State Environmental Inspection of powerful facilities, such as enterprises as PJSC “ArcelorMittal Kryvyi Rih”, PJSC “MMP named after Ilyich”, PJSC MP “Azovstal” and others, a special division specializing in industrial pollution was created on many [17].

The issue of air protection and the reduction of pollutant emissions into the air is particularly relevant for those regions in which enterprises exist as a city-forming activity and whose operation results in industrial pollution.

In 2017, the Ministry of Environmental Protection and Natural Resources of Ukraine (formerly the Ministry of Ecology and Natural Resources of Ukraine), trying to address the problem of air pollution, compiled a ranking of the Top 100 major polluting businesses to improve the way business owners approach environmental issues. The category of ambient air pollutants was headed by the enterprises of PJSC “ArcelorMittal Kryvyi Rih”, PJSC “MMP named after Ilyich” and Burshtynska thermal power plant [18].

The level of atmospheric air pollution in cities where enterprises with an industrial pollution factor have been operating for a long time remains very high. Thus, according to the Atmospheric Air Pollution Observatory of Kryvyi Rih in July 2021, there was a significant increase in dust concentrations for 50 % of the samples, formaldehyde for 14 %, phenol in cases of 2 %, carbon monoxide in cases of 3 % and nitrogen dioxide in cases of 2 % of all collected samples. The main sources of atmospheric air pollution by emissions from metallurgical plants are coke-chemical, sintering, blast-furnace, ferroalloy, and steelmaking [19].

The creation and opening of the office of the central apparatus of the State Ecological Inspection in the city of Kryvyi Rih, specializing in industrial pollution, was the result of complex reforms and is connected with the work of large industrial enterprises in the Dnipropetrovsk, Zaporizhzhia and Donetsk regions [20]. The activity of the new subdivision of the State Ecological Inspectorate should be directed to the protection of

the natural environment, improvement of the ecological situation in the region, air pollution, and control of such industries.

According to the Environmental Air Quality Digest in Kryvyi Rih in October 2021, the exceedance of the maximum permissible concentrations for some categories of pollutants increased compared to July 2021.

Thus, the reform and expansion of the State Environmental Inspectorate have not solved the problem of industrial pollution, as the indicators of air pollution continue to increase and exceed the maximum allowable standards.

Protecting natural resources from pollutants is no longer an exclusive professional and legal subject, as engaging the public to impose additional air protection measures points to the importance of regulating such an important social issue. Very often, ordinary citizens, public figures, and non-political organizations have an interest in effectively monitoring the activities of enterprises that result in industrial pollution.

Creation of the necessary conditions for public participation in the control of enterprises whose activities involve industrial air pollution in decision-making on environmental protection and other forms of interaction, is unanimously recognized as a progressive step towards improving the environmental situation by the international expert community.

The Law of Ukraine “On Environmental Impact Assessment” provides for public participation in the discussion of environmental impact assessment to identify, collect and take into account comments and proposals for planned activities [2].

In choosing the European integration direction, Ukraine has undertaken to adapt national legislation on environmental protection to the requirements of the European Union. The Convention of the United Nations Economic Commission for Europe “On access to information, public participation in decision-making and access to justice in environmental matters” is one of the instruments providing public access to environmental issues; it was adopted on 25 June 1998 (Aarhus, Denmark) and ratified by the Verkhovna Rada of Ukraine on 6 July 1999. Having analyzed the case law on public participation regarding access to information on the state of the environment, to justice to protect the environmental rights of both individuals and their communities, we can state that the existing legal model of public participation in jurisdictional forms of protection of the environmental rights of citizens is ineffective since the established means of protection and the forms of realization of the right to protection do not produce the expected result, therefore require scientific review and change. Current legislation, including Article 293 of The Civil Code of Ukraine provides for the use of the institution of the “public concerned” in the case of an appeal to judicial bodies for the protection of violated environmental rights and for compensation for the harm caused, violation of the right to a safe environment for life and health [3].

At the same time, the Law of Ukraine “On Environmental Protection” Public environmental organizations shall have the right to appeal, by the procedure established by law, against a decision to refuse or delay the provision of environmental information upon request or to wrongfully reject a request and its incomplete satisfaction.

In accordance with the legislation in force for the realization of environmental human rights, the responsible State, represented by State or local government bodies. Therefore, the public concerned may appeal to the court for the protection of the natural environment against the actions of the State or local authorities which have allowed the operation of business activities of sub-management facilities, which hurts the environment, spoils, destroys, pollutes objects of the natural environment, or because of inaction by business operators in the use of natural objects and natural resources that are harmed. The totality of such circumstances creates conditions for the realization of the right to judicial protection with the request of the authorized bodies of state power or local self-

government within the limits of their competence to decide on the termination or prohibition of the use of objects in nature entrepreneurial activity. With regard to actions of private persons violating environmental legislation. Social organizations may only take judicial action to call for the cessation of illegal activities and compensation for violations of the right to a safe environment for life and health, and not only to claim compensation for material or moral damage; but also the prohibition of business activities harmful to the environment [3].

Ukrainian legislation provides for public participation only at the level of environmental decision-making and gives the right to resort to the courts in the event of a violation of the human rights to a safe environment and reparation of material and moral damage caused.

Of interest is the opinion of scientist V. Yurovskaya, which indicates the need to involve active, interested citizens, civil society organizations, and territorial communities in the management of the air protection system, enabling them to exert influence and make effective decisions, with a detailed decision-making process. At the same time, the scientist sees the problematic aspects of involving such actors in the management of the system of atmospheric air protection, and public participation as a consultant or consideration of its opinion is largely insufficient. The importance of transferring responsibility for environmental protection to the level of unified territorial communities and other elected local self-government bodies was justified by the achievement of the following results: the correlation between the subject of the authorized environmental decision and the public affected by the decision; the possibility for the public not only to express their position through consultative public meetings, but to influence decision-making through elected representatives; ensuring the possibility of entering into a policy dialogue on the polluter's management, not with ministry officials who, due to objective circumstances, are not able to balance economic and environmental interests in individual territories of the State, and directly with the territorial communities concerned.

Conclusions and prospects for further development in this aspect. In the scientific study, the authors analyzed the regulatory and legal framework to control the activities of enterprises with industrial pollution of atmospheric air.

In the course of carrying out the relevant study, it was possible to formulate, in our opinion, successful ways of influencing the improvement of control over the activities of industrial enterprises whose operation is connected with atmospheric pollution:

- reform of State control bodies in the field of environmental protection, rational use, reproduction, and protection of natural resources;
- strengthening public control in the sphere of environmental protection;
- improving the legal and regulatory framework and increasing the liability of enterprises whose activities cause industrial air pollution.

According to the indicators of the level of air pollution, in the example of the Kryvyi Rih, it is seen that the creation of an additional structural subdivision of the State Ecological Inspectorate has not yet solved the problem of industrial pollution, and the maximum allowable pollution limit is constantly increasing and exceeding the maximum allowable limit. Thus, the reform of State environmental control bodies does not solve the problem of exceeding the allowable norms of atmospheric air pollution, and the new personnel structural element requires additional budget expenditures. Taking into account the scientific research and analysis of practice carried out earlier, public involvement in the relevant inspections is a good idea, but at the same time, the mechanism of involvement and direct participation of representatives of the public in the relevant control measures, need further elaboration.

We also believe that the importance of the topic and the prospects for further research have been confirmed by the World Health Organization, which considers air pollution to be one of the biggest environmental threats to human health. In fact, at the international level, it has been proven that, as of 2019, 99 % of the world's population lived in regions where air pollution exceeded the targets set in the WHO air quality recommendations, which in turn causes premature death of a person. Among the factors influencing the state of air pollution is the activity of industrial enterprises. Although, unfortunately, the Universal Declaration of Human Rights does not specify the right to a "safe environment for life and health" the indication of this right in the Constitution of Ukraine and the information provided by us confirm the relevance of the study in terms of statistical data collected and verified by organizations possessing an extremely high level of professionalism and trust, and then the legal and moral right to speak about the international level of the relevant subject matter.

Of course, the duty to respond to the violation of atmospheric (environmental) legislation is vested primarily in the relevant entities, which are called upon to protect our constitutional rights and legitimate interests. However, the relevant industrial giants, from a certain point of view, should also have an interest in working within the framework of the existing legislation, especially in the case of industrial holdings or enterprises with foreign capital. But given the existence of certain risks, such as low professionalism of individual professionals, deficiencies in the law enforcement system, corrupt relationships, we believe that the public should have a direct opportunity to influence certain processes, to help, illuminate, and in certain cases perhaps to stimulate the actions of those whose duties include the things we have written about above.

The fact that the maintenance of multilevel and pluralistic systems of environmental policy is also observed at the UN level confirms the correctness of our thoughts and conclusions, which also indicates the effectiveness and efficiency of such methods (including the use of administrative and control measures), certainly increasing the level of participation of industrial giants (business) in solving these environmental problems.

The public can directly help in the political dialogue, to build a system of deterrence and counterbalance between the government and industrial air polluters. However, in order to provide real, effective opportunities for public inspectors, it is advisable to introduce configurations in the relevant regulations that will provide the appropriate mechanism, allow building and improving the system of training of public eco inspectors.

The idea of increasing administrative liability, which we believe to be very important, although not new, is of the utmost importance since liability up to eight unfunded minimum incomes of citizens is not effective at all and therefore does not encourage the offender concerned, does not have a preventive function and, in a sense, avoids criminal liability by providing, in a sense, the possibility to choose a less stringent type of liability for air pollution.

We believe that, in order to meet the objectives set, to motivate air pollutants to bring their activities within the limits of the existing legislation, fines should be substantially increased. Thus, in our opinion, it is advisable to increase administrative liability and determine a fine equal to 50% of the damage caused, which, of course, should be compensated in full.

Therefore, we consider it appropriate to amend Articles 3, 78 and 79 of the Ukrainian Code of Administrative Offences, which, in turn, should have an impact on the actions of the relevant actors, which would consist in refraining from violating legislation on the protection of the natural environment, in particular atmospheric air.

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Посилення контролю за діяльністю підприємств із промисловим забрудненням атмосферного повітря

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Мета. Здійснити аналіз і дати оцінку правових підстав діяльності підприємств, що мають вплив на атмосферне повітря через результат своєї діяльності, дати рекомендації щодо вдосконалення механізму контролю та впливу на діяльність таких підприємств і видів юридичної відповідальності за порушення законодавства у сфері охорони атмосферного повітря.

Методика. Дослідження проблемних питань посилення контролю за діяльністю підприємств із промисловим забрудненням атмосферного повітря проводилося шляхом вивчення та аналізу нормативно-правової бази України, теоретичних досліджень учених у відповідних галузях, аналізу офіційних статистичних даних щодо рівня забруднення атмосферного повітря

Результати. У роботі досліджене чинне законодавство з контролю за діяльністю підприємств із промисловим забрудненням атмосферного повітря. Виявлені окремі проблеми та відсутність належного контролю за діяльністю підприємств із промисловим забрудненням атмосфери.

Наукова новизна. Сформульовані основні шляхи впливу й покращення контролю за діяльністю промислових підприємств, функціонування яких пов'язане із забрудненням атмосферного повітря: реформування державних органів контролю у сфері охорони навколишнього природного середовища; посилення громадського контролю у сфері захисту навколишнього природного середовища; коригування законодавства та посилення відповідальності підприємств.

Практична значимість. У роботі рекомендоване запровадження обов'язкової участі громадськості на етапі «контроль дотримання законодавства при діяльності підприємств із промисловим забрудненням атмосферного повітря», що допоможе вести політичний діалог із такого важливого питання. Для надання необхідних повноважень громадським інспекторам запропоновано внести зміни до законодавства у сфері охорони атмосферного повітря й доповнити відповідними нормами, що запровадять обов'язкове навчання громадських екоінспекторів. Також аргументована необхідність на етапі контролю за діяльністю підприємств із промисловим забрудненням повітря посилити адміністративну відповідальність і визначити штраф у розмірі 50 % завданних збитків, що мають бути відшкодовані в повному обсязі. Таким чином, унесення змін до ст. 78 та 79 Кодексу про адміністративні правопорушення України стримуватиме відповідні суб'єкти від порушення природоохоронного законодавства.

Ключові слова: забруднення атмосферного повітря, громадський контроль, юридичну відповідальність, охорона довкілля

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