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CURRENT ISSUES OF REFORMATION OF THE CONCEPTUAL CATEGORICAL APPARATUS OF THE UKRAINIAN ENVIRONMENTAL LEGISLATION

The article is devoted to the analysis of theoretical propositions for the improving «term system of national environmental legislation». The priority measures have been formulated in the context of European integration on amendments to the Law of Ukraine «On environmental protection». In particular, this Law has been supplemented by the article «Conceptual-categorical apparatus» and its compliance with the main provisions of the international standard ISO 704:2009 «Terminology work – Principles and methods».

Key words: reformation of environmental legislation, the conceptual-categorical apparatus, term, category, concept, definition, term system, European integration.

Problem setting. The European Union takes a position, directing its policy on the implementation of regulatory convergence neighboring countries, using it as a tool to stabilize the Eastern Europe and seeking incarnation to life its proposed model of neighbors approach to the EU norms and standards [1, c. 23]. Thus, in the English text of the preamble to the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, March 21, 2014 and June 27, 2014 (hereinafter – Agreement) sides acknowledged that the political association and economic integration of Ukraine with the European Union will depend on progress in the implementation of the current Agreement as well as Ukraine's track record in ensuring respect for common values, and progress in achieving convergence with the EU in political, economic and legal areas [2]. It must be emphasized that in the official Ukrainian translation of the Agreement the notion of «convergence» in the preamble is not used [3]. This fact confirms the low level of translation quality and construction of legislative texts and determines the need to analyze the conceptual-categorical apparatus of the law, both in general and environmental ones in particular.

Most of the terms, concepts and categories of international environmental law cannot be adapted to national term system of environmental legislation, owing the absence of a single scientific-theoretical approach to reformation of the conceptual-categorical apparatus of the environmental legislation of Ukraine in conditions of European integration. This results in the following: a) the imperfections of the translation of normative-legal acts; b) blind duplicate rules without considering the peculiarities of the legal system of our state; c) lack of a unified concept of unification of environmental legislation's terminology; d) difficulties in the elaboration and normative legal fixing of concepts and terms definitions.

It must be noted that the approximation of Ukraine to EU standards in the environmental field is one of the ways of improving the national system of environmental legislation, harmonization of terms. Identification of priority areas is provided by the principles of consistency and efficiency of this process, which is possible due to the fact that the state created the system of legal support of reformation of the environmental legislation. This is implemented in the following: a) adoption of the normative legal acts that determine the strategic objectives of the state and adjust the dynamics of EU integra-

tion; b) the ratification of international treaties and their subsequent implementation into national legislation; c) amendments to existing environmental legislation; d) harmonization of conceptual-categorical apparatus of national legislation and the European Union.

The formation of conceptual-categorical apparatus of the environmental legislation of Ukraine through the prism of European law contributes to the creation and development of qualitatively homogeneous and conceptual joint pan-European principles with national environmental legislation and its harmonization with EU legislation.

Analysis of recent researches and publications.

Justified is the attention of lawyers to develop new legal concepts, terminology, definitions and categories, as well as some additions to those already established itself as the recognized sources of the unified regulator of public relations in the environmental field and this is the basis for the perception of the modern legal definitions. The analyses of concepts and categories of environmental legislation is present in the works of such scientists as V. I. Andreitsev, G. V. Anisimova, A. P. Getman, N. R. Kobetska, V. V. Kostytskyi, N. R. Malysheva, Y. S. Shemchushenko and others. It is not only a problem of the modern theory of law, but also of other branches of knowledge, such as the analyses of environmental term system and its semantic peculiarities, conducted by scientists-linguists: D. S. Lotte, V. K. Matviichuk, S. V. Ovseichyk, M. I. Salamakha, O. O. Selivanova etc.

However, in the environmental and legal science in general has not been formed the same interpretation of certain categories. However, given above is possible to recognize as an indicator of the development of legislation which reflects the dynamics of the process of improving legal terminology. Thus, the multivariate scientific approach to terms and their interpretations of environmental legislation promotes the creation and identification of the most effective ones.

Target of research. The purpose of this article is to identify the best ways of improving the conceptual-categorical apparatus of environmental legislation taking into account the European integration reformation processes in Ukraine. According to the purpose the following objectives are defined: a) to summarize the leading scientific-theoretical approaches to the foundations of the reformation of environmental legislation conceptual-categorical apparatus; b) to undertake comparative legal analysis and to reveal the specificity of peculiarities of correlation of national and international conceptual-categorical apparatus of the environmental legislation; c) to formulate conclusions and recommendations for improving the conceptual-categorical apparatus of the environmental legislation.

Articles main body. Development of logically consistent and coherent system of legal knowledge,

concerning definitions, is not only a result obtained in the course of scientific research but also a necessary condition, one of the priorities of legal reformation. Only such a system can ensure the reformation of environmental legislation, its uniform interpretation and effective implementation of legal norms regulating environmental matters. The accuracy and clarity of legal language, their adequate linguistic embodiment, the correct and uniform operation of legal terminology determine the effectiveness of legislation, contributing to the full protection of the rights of individual citizens, legal entities, society and state.

It has been noted that legal norms are formulated and expressed through general and abstract questions, specific legal and technical terms, which in different conditions may be perceived ambiguously by the subjects of law. The imprecision of linguistic expressions of the law, the lack of uniformity of concepts and terms results in improper interpretation and application [4, p. 6].

It is generally agreed that conceptual-categorical apparatus is a kind of phenomenon that defines the cultural aspect of the law-making process, its practical orientation; is one of the elements of legal technique; is the primary material expression of the will of an entity, the first stage of the construction of the legal text. Note that the attempt to provide a clear and logically constructed terminations, namely environmental concepts in the domestic scientific space have been made recently, so the terminology belongs to the group of modern term system that are under development. However, today we can talk about consistency of the Ukrainian ecological terminology [5].

So, linguists and other humanities scholars consider the term system as: a) a set of terms providing for the nomination of the main concepts of a certain sphere of knowledge and activity, that are linked by semantic and other relations [6, p. 184]; b) the set of terms in a particular field of knowledge, scientific schools, etc., related on the conceptual, lexical-semantic, word-formation (derivative) and grammatical levels [7, p. 270]; c) set subject-logical relationships between concepts, reflecting the structure of the object that is studied by a particular branch of knowledge [8, p. 57]. It should be noted that the conceptual-categorical apparatus is much wider than the term system of environmental legislation, and the last is part of it.

The logic of scientific research requires clarification of the content of the relevant terms and other elements of the conceptual apparatus of environmental legislation. Considering the fact that our government chose the path of reformation of national environmental legislation and its approximation to European Union legislation, it is obligatory to have the correct, clear and unambiguous interpretation of the categories, concepts and terms to avoid misinterpretation and incorrect application of the

national law. So, during the way of formation of the doctrinal approaches to the process of the environmental legislation reformation of Ukraine it is first of all necessary to analyze the co-relation of «concept», «term», «category», «definition».

Legal terms are concepts that have grown in the process of development of the legal or social system. Concepts and terms lead to the beginning of the semantic life of any legal provisions. The term «category» (gr. *katēgoría* – a statement, an accusation, a sign) means: a) a basic logical concept that reflects the most common natural connections and relationships that exist in reality (philos.); b) a generic term denoting a category of objects, events and so on, or important common feature (scientific); c) group, the category of homogeneous objects, persons or phenomena, different from other specific characteristics [9, p. 420]. Accordingly «category of law» is the most common typical concept used in the law [10, p. 64], in turn «legal category» is the most general and fundamental legal concepts, which is a feature of scientific generalization in a specific area of legal knowledge, both in jurisprudence and in legal practice as a whole [11, p. 115]. That is the definition is, in our opinion, the most successful.

Legal category is a variety of concepts and represents major stable theoretical core. The practice of using the terms «category» and «concept» has shown that in some cases they are understood as synonyms, while others are in a relationship full of mutual exclusion [12, p. 81]. We also consider that it is necessary to agree with A. M. Vasyliiev, who emphasizes that another feature of legal categories compared to categories of other sciences, is their consolidation in law [13, p. 92].

Turning to the essence of the term «concept» it has been noted that in the vocabulary literature it is interpreted as: (a) one of the forms of thinking, the result of generalization of the essential features of the object's reality; (b) the understanding by someone of something, formed on the basis of any information, their own experience; (c) an opinion about something, look at something [9, p. 168]. In turn, the «term» is word or phrase denoting a concept that is used in presenting the content of a normative legal act [14, p. 218–219]. The requirements that the terms must satisfy are designed with the help of legal technology. It contains a system of means, methods and techniques used in the process of legal activities aimed at the development and implementation of legal norms in order to streamline them and ensure the effectiveness of legal regulation of social relations [15, p. 478]. G. V. Anisimova emphasizes that it is still not achieved uniformity in the definition, use and interpretation of environmental legal terminology used in scientific publications, educational literature, and legislation on practice. Modernity requires a comprehensive, balanced approach to its research [16, p. 2].

Undoubtedly, a versatile interpretation of a «term» leads to a certain terminological diffusely. Each term has its terminological meaning, which precisely defines the concept in a special area and is derived from its definition. Terminological value «is different from the usual that does not apply, does not shrink or modified in different situations of speech process» [17, p. 25]. To install the eigenvalues of the term it requires definition, the purpose of which is to attempt such interpretation of the concept, which will provide implementation of the law. In addition, the use of one or the other term requires first of all understanding of its definition, which explains the conceptual meaning of the term, enshrines the results of the analysis; identify the concept and its place among other concepts of the industry. Specific requirements are also put forward definitions: 1) objectivity; 2) historicity; 3) clarity; 4) completeness and etc. [18, p. 25–26]. So, the logic of scientific study requires a precise understanding of the content of relevant terms and other elements of the conceptual framework of environmental legislation.

Note that from 1 July 2010 the national standard DSTU 3966:2009 «Terminology work. Principles and rules for the development of standards on terms and definitions of concepts», which in Appendix G (Requirements «term») stated that «the foundation of any professional language there are terms which should be explicitly and clearly define a certain concept in a particular subject area» [19, p. 10]. Hinzburh M. D. argues that the requirement to the term as an element term system, which was standard in DSTU 3966:2009, compliance with the main provisions of the international standard ISO 704:2009. In his opinion, it should be taken into account that «the term has a dual nature: on the one hand, it is the designation of a certain concept, and as an element of term system of studied subject areas it needs to meet certain requirements to content and form, and on the other, the word (phrase) of a particular natural language, on which it will continue to apply its provisions» [20]. In turn, during the introduction of a new term, experts point out, if in the language-recipient it reflects all the nuances that are inherent in the meaning of the term in the donor-language. If the language-recipient is no precise counterpart, then this term is not translated, but transliterated or it is made the calque: *adaptation* (adaptation), *approximation* (approximation), *harmonization* (harmonization), *implementation* (implementation), *ecosystem* (ecosystem), *convergence* (convergence), *unification* (harmonization).

Summing up regarding the correlation «category», «concept», «term» and «definition» it will be observe the following. In contrast to the «concept» the «legal categories» are the most general fundamental concepts united by a common characteristic. The legal category is a generic term in relation to the legal concept. In addition, we can conclude that «term» is the name of the concept;

hence the category «concept» is broader than the category of «term». Also from content above it follows that the terms are used primarily in a scientific field, therefore, in the legal sense, the most acceptable is the use of the word «concept», and in the text of the law should be used as the title of the regulations the phrase «basic concepts» or «conceptual-categorical apparatus».

You should also focus on the unification of terminology as one of the signs of realization of the national environmental legislation's approximation with European Union legislation. As noted by Y. S. Shemchushenko, the starting point of harmonization of Ukrainian legislation with the European law is to standardize the terminology used in these two legal systems. In addition, it is not easy to achieve mutual understanding in the legal field. He believes that the course of adaptation of the legislation must be started, in particular, legal terminology [21, p. 36–37]. It should be emphasized that the legal terminology directly affects an official interpretation of legal norms; therefore, an important element of the legal integration is legal terminology of different legal systems.

Some scientists consider the unification of legal terminology as an initial and separate phase of legal systems approximation [21, p. 36–37; 22, sec. 205; 23, p. 54–55]. Development of sustainable system of the conceptual apparatus is of great importance for the convergence of national legislation with international law, its uniform interpretation and correct application of legal norms. The process of harmonization of terminology is effective during alignment of national environmental legislation into compliance with international standards. Application in environmental law consistent with European and international practice of legal concepts and terms will contribute to the observance of the principle of legal certainty, the solution of the terminological problems and improve the quality of lawmaking activities of the legislature.

Language faces of foreign language influence and, consequently, affect other languages. Terminologists tend to «modern conditions of information exchange to connect the elements of internationality of term system and national identity» [24]. The application of certain concepts of international environmental law in the legislation of Ukraine deserves attention in our research, due to the fact, that one of the problems, faced by Ukraine in reforming legislation, is the lack of unanimity in the use of legal concepts. Note that increasing urgency is the problem of identifying the specifics of environmental term system English and Ukrainian languages, especially in relation to their use. Legislative legalization of the term involves, first, understanding its definition, which clearly outlines and restricts its meaning, explains its contents, and consolidates the results of the analysis of a concrete concept and its place among others.

Analyzing international environmental normative legal acts, focusing on the European Union legislation, based on the theoretical developments of researchers-linguists, we consider it expedient that the terminology of international environmental law is divided into the following groups:

1) the names of the objects, requiring protection and maintenance in a proper state – *ecosystem, environment, fresh water, air, waste, underground drinking water, endangered species, etc.*;

2) the name of the laws, principles, rules and standards: *river quality standards, secular equilibrium, discharge standards, emission standard, environmental legislation, Kyoto Protocol, Air Pollution Control Act, Endangered Species Act, Environmental Assessment Act, etc.*;

3) name factors affecting the environment – *nuclear power plant, acid rain, solid waste, earthquake, pesticides, etc.*;

4) the names of the results and consequences of environmental problems – *greenhouse effect, ozone hole, oil spill, water deficit, soil depletion, forest fire, biodiversity reduction, etc.*;

5) names of plants, tools and devices for protection, purification, prevention problems and maintain the environment in good condition – *reserve, national park, hazardous waste, etc.*;

6) names of actions, processes, characteristics, features and properties related to environmental protection – *pollution, deforestation, purification, desalination, radiation, fertility, etc.*;

7) names of measures, methods and ways of protecting, cleaning and maintaining the environment in proper condition – *recycling, waste incineration, discharge limit, regulatory clean water monitoring, reforestation, etc.* [25, p. 81].

There is no doubt that the proposed classification is not exhaustive and can be supplemented with new groups given the intensive and continuous development of new concepts of term system of international environmental law. For further research this grading is significant, however, it is a discussion of provisions and also requires the specification criteria of the above classification. However, we emphasize that Ukrainian environmental legislation does not always have counterparts as the international environmental terminology and international legal acts regulating environmental relations. In turn, the approximation of national environmental legislation to international standards led to the intensification of the reform of national legislation and to update its term system.

Conclusions and prospects for the development. It is of great importance the creation of a consistent system of terms which is applicable to the national environmental legislation, because an effective mechanism of streamlining the terminology implies first of all the

identification of system concepts, and then developing an ordered system of terms (definition of its boundaries, structural features, and completeness of values). Creating a sustainable system of legal terms and concepts is not only a subject of scientific research, but also an important condition, one of the ways of adaptation of national environmental legislation. This system will provide the ability to equally understanding of terms and concepts and avoiding the differences in interpretation and enforcement. Summing up, we note that the process of unification of terminology will be effective in modern conditions of intensification of European integration processes during the period of alignment of national environmental legislation into compliance with international standards.

Summarizing the recapitulations obtained through research, we believe that the application of environmental legislation harmonized with European and international practice, legal concepts, categories and terms will contribute to: a) the principle of legal certainty; b) the solution of the terminological problems; c) improve the quality of law-making activities; d) the combination of

elements of internationality of term system and national identity; e) developing a sustainable system of concepts and categories of environmental legislation and the like.

On the basis of the analyzed points of view, we can say with the help of the theoretical developments, their legislative consolidation and testing of the system under analysis the national environmental legislation should be an orderly set of interrelated, interdependent, coherent, consistent environmental terms, each of which has its clearly defined place and between which there are logical connections that define a permanent structure term system of environmental legislation.

We consider it appropriate that the process of reformation must begin with amendments to the Law of Ukraine «On environmental protection». In particular, this Law has been supplemented by the article «Conceptual-categorical apparatus» and its compliance with the main provisions of the international standard ISO 704:2009 «Terminology work – Principles and methods». In addition, these changes can be further detailed and specified in the development of Environmental code of Ukraine.

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**СУЧАСНІ ПРОБЛЕМИ РЕФОРМУВАННЯ
ПОНЯТІЙНО-КАТЕГОРІАЛЬНОГО АПАРАТУ
ЕКОЛОГІЧНОГО ЗАКОНОДАВСТВА УКРАЇНИ**

Стаття присвячена аналізу теоретичних положень щодо вдосконалення «терміносистеми національного екологічного законодавства». Сформульовані першочергові заходи в умовах євроінтеграції щодо внесення змін до Закону України «Про охорону навколишнього природного середовища», зокрема його доповнення статтею «Понятійно-категоріальний апарат» та її відповідності основним положенням міжнародного стандарту ISO 704: 2009 «Термінологічна діяльність – принципи та методи».

Ключові слова: реформування екологічного законодавства, понятійно-категоріальний апарат, термін, категорія, поняття, дефініція, терміносистема, євроінтеграція.

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**СОВРЕМЕННЫЕ ПРОБЛЕМЫ РЕФОРМИРОВАНИЯ
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ЭКОЛОГИЧЕСКОГО ЗАКОНОДАТЕЛЬСТВА УКРАИНЫ**

Статья посвящена анализу теоретических положений по совершенствованию «терминосистемы национального экологического законодательства». Сформулированы первоочередные меры в условиях евроинтеграции о внесении изменений в Закон Украины «Об охране окружающей природной среды», в частности дополнении его статьей «Понятийно-категориальный аппарат» и её соответствии основным положениям международного стандарта ISO 704: 2009 «Терминологическая деятельность – принципы и методы».

Ключевые слова: реформирование экологического законодательства, понятийно-категориальный аппарат, термин, категория, понятие, дефиниция, терминосистема, евроинтеграция.