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OVERVIEW OF THE LOCAL GOVERNMENT POWERS IN THE FIELD OF THE ENVIRONMENT PROTECTION: THE EUROPEAN EXPERIENCE

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ОГЛЯД ПОВНОВАЖЕНЬ ОРГАНІВ МІСЦЕВОГО САМОВРЯДУВАННЯ У СФЕРІ ОХОРОНИ НАВКОЛИШНЬОГО ПРИРОДНЬОГО СЕРЕДОВИЩА: ЄВРОПЕЙСЬКИЙ ДОСВІД

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The article analyzes the environmental competence of local governments of leading European countries. It is noted which powers of the municipal government in the field of environmental protection were transferred to the local level due to decentralization. Positive aspects are highlighted, which can be further used by national local governments.

In view of the above, it is obvious that in Ukraine, in order to increase the efficiency of local self-government bodies in the environmental sphere, it is necessary to more clearly define the functions and powers and their responsibility for decision-making. It should also be noted that there is a lack of harmonization of regulations in this area at the local, regional and state levels. The result is duplication of functions and disputes beyond authority. European experience shows the expediency of expanding the competence of local self-government in the field of environmental protection and a clear definition of the powers of municipal authorities.

The effectiveness and efficiency of the implementation of the activities of municipal bodies in the field of environmental protection in order to ensure sustainable use of nature and environmental protection depends on a clear demarcation of functions and powers of local self-government bodies and legislative regulation of the responsibility of local authorities for their decisions. It is obvious that research and use of the experience of European countries in the research area will contribute to this.

Key words: *competence, ecological powers, decentralization, European experience.*

Formulation of the problem. Climate change affects all regions of the world and all European countries are no exception. Adapting to such changes, European society faces this challenge, but it is also an opportunity for interaction and cooperation if countries take adaptation measures together. Achieving this requires constant efforts to adapt the institutions of environ-

mental and sectorial policies. Against the background of the emergence of different tools and approaches to environmental regulation, the role played by governments at different levels in the protection and rational use of environmental resources has increased significantly over the years, especially the role of local governments.

In Ukraine, the Constitution in Art. 16 determines the duty of the state to ensure

environmental safety and maintain ecological balance in Ukraine, and Art. 50 of the Basic Law of Ukraine regulates that everyone has the right to a safe environment for life and health and to compensation for damage caused by violation of this right. In this context, the state policy in the field of environmental protection is formed by the Ministry of Environmental Protection and Natural Resources [4]. However, with the introduction of decentralization in Ukraine, it is extremely important to update the relevant issues at the local level, in other words, to increase the powers of local self-government in relation to environmental safety.

Analysis of recent research and publications. In the domestic legal literature, environmental issues in the field of local self-government were studied by such scientists as Yu.M. Kyrychenko, O. Ya. Lazor, SS Neshyk, Yu. V. Bokovnikova. However, insufficient attention was paid to the study of comparative legal aspects, in particular the competence of local self-government in the field of environmental powers.

Given the urgency of the issue and the insufficient state of scientific development, the **purpose of this work** is to analyze the current state of local government, in particular, the powers of municipal authorities of European countries in the field of environmental protection.

Presenting main material. The analysis of the Constitution of the Swiss Confederation, in particular the Article 39 and the third part makes it possible to single out the following levels of administration:

1. Federal - allied authorities;
2. Cantonal - the authorities of the Confederation;
3. Municipal - commune authorities;

When considering local self-government in Switzerland, a distinction should be made between local self-government (cantons) and local self-government. Part 1 of the article 39, part 1 of Art. 50 stipulate that the commune authorities powers and legal bases of the activity

are established by the respective cantons within the competence provided by the Constitution to the subjects of the federation. The Constitution of the Swiss Confederation, in our opinion, very well distinguishes the environmental powers of the federal government from the issues that the cantonal authorities have the right to regulate. Among the environmental powers of the cantons are:

1. Compliance with federal regulations on the protection of man and the environment from harmful influences.

2. Implementation of penalties for prevention and recovery of those who have a harmful effect (Article 74).

3. Implementation of spatial planning on the basis established by the federal government (Article 75).

4. Disposal of water resources, the right to receive payment for the use of water resources (Article 76)

5. Protection of the natural land. In accordance with Part 1 of Art. 78 of the Constitution of the Swiss Confederation, the protection of nature and homeland is fully within the competence of the cantons. The Confederate authorities are obliged to maintain the established order of nature protection, but they are also authorized to issue instructions on the protection of fauna and flora. The Federation may provide support in the implementation of nature protection regulations.

6. Ensuring sufficient energy supply, environmental energy conservation, rational use of energy [7].

Thus, these powers are a range of environmental issues that the cantonal governments of Switzerland have or are entitled to address. In order to carry out the environmental tasks assigned to them, the cantons independently take certain actions or authorize local self-government bodies, which are appropriately embodied in the constitutions of some of the cantons.

Zurich Constitution. The regulation of the competence of the Zurich government and its communes is reflected in Art. 6, 8, 97, 102 and 103 of the Zurich Constitution. In accordance with these provisions, the commune together with canton are responsible for maintaining and preserving air, water, land. The commune, as a responsibility to future generations, ensures ecologically sustainable development (Article 6) and creates conditions for the development of ecological innovations (Article 8). The direct performance of work aimed at implementing the legislation is entrusted to the communes, if they can perform the work better than the canton (Part 1 of Article 97).

The Constitution of Zurich, like some other constitutions of the cantons, directly contains a separate section, which defines the principles of environmental administration. The Constitution of Zurich contains two articles in the relevant section entitled "Environmental Protection". Article 102, which states that the canton and local authorities protect people and the environment from the effects of harmful phenomena (Part 1), direct action to combat such phenomena and must involve technology (Part 2, Part 3) [7].

The following article stipulates that the canton and local authorities are also jointly responsible for the maintenance and protection of flora and fauna and are responsible for the maintenance of valuable natural and built-up areas, including groups of buildings, individual buildings, natural monuments and cultural objects.

The Constitution of Bern. The Constitution of Bern, as well as the previously described Constitution of Zurich, contains a separate section on the principles of environmental issues. Similar to the previous act, the wording on responsibility to future generations is in the Constitution of Bern. Art. 31 states that for the current and future generations the natural environment should be maintained in a healthy state, environmental pollution due to public and

private activities should be minimized (Part 1). Local governments are responsible for ensuring that the population and the population are adequately protected from environmental damage and distress (Part 3). Canton and communes must also provide protection against potentially unsafe infections or genetically modified products, protect their wildlife as a place of refuge.

Article 32 of the Bern Constitution obliges the cantonal communes, in co-operation with private organizations, to take measures to preserve the landscape and the monuments worthy of protection, as well as the monuments of nature and objects of cultural interest constitutionally regulated the question of the ecological principles of the constitutions mentioned in this paper is precisely in the constitution of Lucerne. Article 11 of the canton's constitution imposes on municipalities a number of issues that fall within their competence, which municipalities must implement and control. According to Article 11 (h) of the Constitution of Lucerne, municipalities and cantons are responsible for implementing environmental and energy policies. There is no more detailed regulation of environmental issues in the Constitution of Lucerne. However, Article 141 stipulates that part of the competence and tasks related to the cantonal authorities (and the cantonal authorities also include environmental issues defined in both the federal and cantonal constitutions) may be delegated to municipalities [2]. .

The Constitution of Uri. The principles of regulating issues related to the field of ecology are set out in the Constitution of Uri in two articles. Article 49 of the Constitution of Uri in part one defines the duty of communes and cantons to take care of the protection of man and his natural environment. According to the second part of this article, actions aimed at ensuring such care must take place in the manner and within the limits determined by the cantonal authorities. The canton also issues orders to protect against large



predators and to limit and regulate their numbers. Encouraging an increase in the population of large predators is prohibited. It is interesting to define in the Constitution of Uri the right of ownership of certain elements of the landscape, which is not found in the previously mentioned constitutions. Thus, Part 1 of Article 50 of the Constitution of Uri states that lakes and rivers are the property of communes, except for those that are privately owned [7].

The division of competences on environmental issues involves several branches of government, which must interact with each other in order to properly ensure the environmental stability of Switzerland. The most important environmental issues concerning nuclear energy, participation in international environmental cooperation, determining the special status of the Alps belong to the federal government. The largest amount of environmental authority is vested in the cantons, which must implement on the ground all other issues that do not fall within the exclusive competence of the federal government. In order to carry out environmental tasks, the cantonal authorities grant certain rights and responsibilities to the communes, which must take care of environmental issues in the respective territory and carry out the tasks delegated to them.

In Denmark, environmental protection has become an independent field of activity in which tasks are solved by regional and local authorities. The regional authorities are developing plans to maintain water quality in water supply systems and lakes, watercourses, plans for the use of the catchment area, location of environmentally polluted enterprises, etc. Municipalities plan to place water treatment facilities, water supply systems, solid waste disposal, etc. [3, p. 220]

The main goal of Denmark's environmental policy is to protect the environment, prevent air, water and land pollution, and control noise pollution. The activity of local self-government bodies on

environmental protection is based on the following basic principles: assessment of the object and means of solving the problem; the polluter is obliged to pay environmental costs. The structure of the implementation of the law on environmental protection consists of the following actions: mapping and planning, issuance of permits and approvals, supervision and control.

The government performs a number of functions, mainly in coordinating and planning environmental activities. Based on materials developed and received from local authorities, regional authorities map pollution sources and fields in the surrounding areas, prepare a detailed report on the state of the environment. The report becomes the basis for the development of plans for, for example, improving the quality of the environment, the location of enterprises and waste disposal [8].

In addition, municipalities plan district heat supply, wastewater volume, water supply, and use of expenditures. These plans should not contradict acceptable regional plans, on their basis all environmental protection measures should be carried out.

The most important functions of municipalities are supervision and control:

1) entrepreneurs for whom environmental approval is mandatory and who cause the least damage to the environment;

2) enterprises bound by trade rules (trade rules make uniform requirements for all enterprises with the same direction of activity, regardless of their location and sources of funding);

3) enterprises for which coordination is not mandatory (for example, agricultural enterprises).

The technical department of the municipality in cooperation performs supervision functions with the inter-municipal units for the control of the environment and food, which have the necessary laboratory equipment and qualified personnel.

The system of administrative management is based on the desire to centralize functions and set tasks where the government "could feel where the wind is blowing." Pollution problems are detected on the ground. The city government is closest to the environmental issues that need to be addressed, and knowledge of the local community is considered an important factor in flexible and sound environmental management.

Expenditures on environmental protection in Denmark account for approximately 4% of the country's total budget, with the bulk (over 90%) of this money coming from the city budget. Expenditures of regional and central government account for a smaller share (3% and 6%, respectively). The main part of government spending goes to the construction and operation of various treatment facilities. The main source of environmental funding in the municipal sector is taxes and fees, as well as user fees [3, p. 134].

In Hungary, the central government is responsible for: ensuring compliance with environmental requirements in the performance of state duties for other purposes; Direction of utilization, preservation, prevention of damage, elimination of dangerous elements, restoration and gradual improvement of the state of the environment; Definition of priority tasks of environmental protection; Creating a legal, economic and technical regulatory system to achieve environmental goals; Fulfillment of environmental protection responsibilities by the state administration; Development, maintenance and operation of the system, which serves as a basis for the implementation of tasks, as well as measurement monitoring, control, assessment of the environment, and providing information about their impact; Research of the state of the environment, determination of the degree of possibility of loading and use of the environment; Defining tasks of research, technical development, education, training and culture, providing information, as well as qualifications of products and technologies in the field of environmental protection and ensuring their

implementation; Ensuring the economic and financial foundations of environmental protection.

Regional authorities are responsible for: preparing environmental programs agreed with municipal local authorities; Providing preliminary conclusions on municipal environmental programs or initiating their preparation; Adoption of a position on draft municipal bylaws of municipal local authorities that affect the protection of the environment; Development of recommendations for the establishment of municipal environmental associations.

Local authorities are responsible for: Protecting the local environment and nature; Environmental Health (Collection of waste; Sanitation of the urban environment; Pest and rodent control); Water resources management; Treatment, collection, drainage and treatment of municipal wastewater, Prevention of flood damage; Drinking water supply; Laying of the sewerage.

The capital, Budapest, is responsible for: supplying drinking water; Laying of the sewerage; Wastewater management and disposal (sewerage maintenance); Waste management; Environmental and nature protection; Water resources management; Flood damage prevention.

In the Czech Republic, the central government is responsible for: Protecting and promoting the sustainable use of resources, climate protection and improvement of ambient air quality, nature and landscape protection, safe environment policies. Specific government responsibilities include: protecting the natural accumulation of water, protection of water resources and quality of groundwater and surface water, protection of air, nature and landscape, operation of the National Geological Survey, protection of the mountain environment, including mineral resources and groundwater, waste management, environmental impact assessment, national environmental policy [2].

Regional authorities are responsible for: animal protection and environmental protection.

Local authorities are responsible for: organizing cleanliness on the streets and in other public places; environmental protection; vegetation in built-up areas and other vegetation in public places; water management and treatment; municipal heating and waste processing [9].

In Poland, the Ministry of the Environment is responsible for: environmental policy; environmental protection, forestry, reforestation, management of natural resources, including water and mineral resources; coordination of other agencies; application of relevant laws; assessment of the state of the environment; implementation of tasks arising from the UN Framework Convention on Climate Change, adoption of national environmental policy after consultation with marshals (defining environmental goals, priorities and implementation of measures).

The Main Inspectorate for Environmental Protection (Główny Inspektorat Ochrony Środowiska) is the agency responsible for: supervising the implementation and observance of norms on environmental protection and the use of natural resources; assessment of the impact of adopted policies, plans and programs for environmental protection; environmental monitoring; environmental impact assessment of policies, plans and programs; approval of zoning and allocation of land plots, especially harmful to the environment and human health; coordination of law enforcement measures taking into account environmental requirements with 16 voivodship environmental inspectors [].

The Institute of Ecology of Industrial Zones is responsible for: developing the scientific basis of policies and strategies aimed at sustainable development of urbanized and industrialized areas; study of relevant measures for environmental protection; environmental health risk assessment; research of environmental pollutants and development of technologies;

The Institute of Environmental Protection (appointed by the Minister of Environment) is responsible for: researching environmental protection, developing principles and strategies for environmental protection; setting standards; environmental monitoring; environmental education; development of management plans for protected areas and assessment of the impact of substances, products and installations on the environment; dissemination of information about the state of the environment [3, p. 324].

Regional authorities are responsible for: environmental protection; adoption of regional protection plans for the implementation of national guidelines; adoption of regional waste management plans; imposition of restrictions or prohibitions on the operation of fuel installations, introduction of aspects of water law, including granting ownership of public waters in the state treasury, keeping records of water, water management facilities and reclaimed lands; and regional inspectorates operating under the State Inspectorate for Environmental Protection.

Counties are responsible for: environmental protection and agriculture (including land mergers and exchanges, decision to declare or deprive a forest of its nature, decision to convert forest into agricultural land, approval of geological exploitation projects, decisions within the water rights); adoption of county protection plans for the implementation of national guidelines; pollution warning systems (gas, chemicals and fire); creation of quiet areas in the agglomeration and outside it; issuing permits for the release of gas and dust into the atmosphere; decision-making on the permissible noise level [6].

Local authorities are responsible for: protecting the local environment; adoption of local protection plans for the implementation of national resolutions and decisions on zoning, property division and environmental impact.

The Ministry of Environment is responsible for:

national environmental policy; nature and landscape protection; waste management; flood protection. protection of water resources and groundwater and surface water quality; fishing and forestry in national parks; environmental impact assessment of activities and their consequences; air protection; geological works; Genetically modified organisms and the Unified Information System for Monitoring the Environment and Territories.

Regions of self-government (higher territorial units) do not have competence in the field of environmental protection, although Act of the National Council №302 / 2001 on the Government of Higher Territorial Units (Law on the Region) states that regions participate in environmental protection.

Municipal authorities are responsible for: household waste management; maintaining cleanliness in the village; maintenance of public green areas, water supply, sewerage, sewage from septic tanks; implementation of state policy related to tree protection and replacement of plantations; nature conservation; implementation of public administration in the field of forest protection type I; Protection of wood species [5].

In Italy, the central government is responsible for most environmental responsibilities for air, water, waste and soil (Ministry of the Environment); implementation of international conventions and EU legislation and setting goals in accordance with them; preservation and promotion of natural areas recognized as being of international or national interest; protection, safety and monitoring of marine quality; regulation of standards; technical support: purchase, lease and use of ships and aircraft for special environmental operations of national importance; list of species available for hunting; a list of endangered fauna and flora; issuing permits related to the import / export of fauna; list of dangerous animals; adoption of a charter on nature; regional planning for water resources; nature parks and national reserves; water pollution, including the definition of a

national plan for the protection of the sea and the pollution of the sea coast, as well as the definition of standards; Noise and air pollution, including air quality monitoring and regulation standards, and

Common competencies with the regions are: information and education; promotion of clean energy and sustainable development policy; emergency solutions aimed at preventing damage to the environment; protection of the coastal environment, and environmental impact assessments.

Regional authorities are responsible for all administrative functions that are clearly not assigned to the state, in particular: prioritization of environmental measures; coordination; allocation of funds; high risk zoning of ecological crisis areas; regional parks; water pollution (all administrative functions, clearly not assigned to the state); noise and air pollution (all administrative functions, clearly not assigned to the state); soil protection (with the state), and electricity supply [3, p. 78].

Competences together with local authorities are: protection and surveillance of coastal areas; control of wildlife commerce and detention; forestry, water resources management.

Regional authorities are responsible for: licensing, monitoring and providing services to the environment and nature parks. Competences common to the central government and regional authorities are noise and air pollution; soil protection; water pollution and water management.

Municipal authorities are responsible for environmental control; sewerage; garbage collection and disposal; participation in zoning of high risk of territories of ecological crisis; local parks and gardens, as well as water and gas supply. Competences together with the central government, regional and provincial authorities are: noise and air pollution; soil protection; water pollution and water management.

Conclusions. In view of the above, it is obvious that in Ukraine, in order to increase the efficiency of local self-government bodies in the environmental sphere, it is necessary to more clearly define the functions and powers and their responsibility for decision-making. It should also be noted that there is a lack of harmonization of regulations in this area at the local, regional and state levels. The result is duplication of functions and disputes beyond authority. European experience shows the expediency of expanding the competence of local self-government in the field of environmental protection and a clear definition of the powers of municipal authorities.

The effectiveness and efficiency of the implementation of the activities of municipal bodies in the field of environmental protection in order to ensure sustainable use of nature and environmental protection depends on a clear demarcation of functions and powers of local self-government bodies and legislative regulation of the responsibility of local authorities for their decisions. It is obvious that research and use of the experience of European countries in the research area will contribute to this.

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Чиркін А.С. Огляд повноважень органів місцевого самоврядування у сфері охорони навколишнього природного середовища: європейський досвід

У статті проаналізовані екологічна компетенція органів місцевого самоврядування провідних європейських країн. Зазначено, які саме повноваження муніципальної влади у сфері охорони навколишнього природного середовища були передані на місцевий рівень внаслідок децентралізації. Висвітлені позитивні аспекти, які у подальшому можуть бути використані національними органами місцевого самоврядування.

Ключові слова: компетенція, екологічні повноваження, децентралізація, європейський досвід.

Чиркин А.С. Обзор полномочий органов местного самоуправления в сфере охраны окружающей среды: европейский опыт.

В статье проанализированы экологическая компетенция органов местного самоуправления ведущих европейских стран. Отмечено, какие именно полномочия муниципальной власти в сфере охраны окружающей природной среды были переданы на местный уровень в результате децентрализации. Освещены положительные аспекты, которые в дальнейшем могут быть использованы национальными органами местного самоуправления.

Ключевые слова: компетенция, экологические возможности, децентрализация, европейский опыт.



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