навколишнього середовища. Здійснюючи охорону атмосферного повітря, держава в особі уповноважених органів охорони природи виходить із завдання не допустити шкоди людині та навколишньому середовищу в процесі взаємодії суспільства та атмосфери.

Підкреслено значення адміністративно-правових засобів охорони атмосферного повітря, які пропонується розглядати як правові явища, що виражаються в інструментах (установах) та адміністративно-правових діях суб'єктів адміністративно-правової охорони цієї важливої природної складової, спрямованих на збереження відновлення його природного стану, умов життя, екологічної безпеки та запобігання шкідливому впливу атмосферного повітря на здоров'я людей та навколишнє середовище.

Окреслено особливості адміністративно-правових засобів охорони атмосферного повітря, зокрема: особливу сферу впливу цих засобів, яка пов'язана з використанням виключно для збереження, оздоровлення та відновлення атмосферного повітря, запобігання та зменшення його забруднення та хімічного впливу. сполуки, фізичні та біологічні фактори; виключне застосування лише в межах адміністративно-правових відносин, що виникають під час охорони цього природного компонента; наявність широкого спектру предметів застосування; домінування серед них застосування заходів контрольно-наглядового та превентивно-примусового характеру; переважна деталізація та розробка у відомчих нормативно-правових актах та рішеннях місцевих органів влади та місцевого самоврядування; використання у застосуванні техніко-правового змісту та характеру.

Ключові слова: *атмосферне повітря, безпека атмосферного повітря, адміністративний засіб, правовий захист, адміністративно-правовий захист.*

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EFFICIENCY OF THE ACTIVITY OF GOVERNMENT AUTHORITIES IN THE FIELD OF PROTECTION AND USE OF FOREST RESOURCES

Abstract. The purpose of this article is to establish the effectiveness of state regulation and management in the field of forest resources in order to ensure their proper protection, rational use and reproduction; to define the powers of public authorities in relation to forest resources management; to establish the functions of state management of forest resources; to analyze the main tasks of state regulation and management in the field of forest relations.

The methodology includes a comprehensive analysis and generalization of available scientific and theoretical material and the formulation of relevant conclusions and recommendations. The following methods of scientific cognition were used during the research: terminological, logical-semantic, functional, system-structural, logical-normative.

As a result of the study, it was found that in our country there is a very extensive system of control of government agencies over activities in the forest sector. But its efficiency is low, because illegal deforestation is carried out en masse, and the authorities that are supposed to monitor it do not seem to notice anything, or the officials on whom the solution of a particular issue depends decide in their favor, not in favor of the state - that is, officials themselves commit illegal acts. Unfortunately, such cases are not uncommon - mostly mass. Therefore, there is a need to change, improve and increase the effectiveness of control both directly by public authorities and these bodies themselves. Procrastination can lead to the destruction of forests, animals, and the ecological network, which in turn affects the ecological environment of citizens and their lives and health.

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Scientific novelty: in the course of the research it was established that the system of state management of forest resources is inefficient and needs to be improved.

The results of the study have practical significance and can be used in lawmaking and law enforcement activities during the implementation of measures for the protection, use and reproduction of forest resources.

Keywords: *forest; forest resources; governance; forest protection; use of forest resources; rational use of forests; forest protection.*

Relevance of the study. Unlike previous epochs, it is now generally accepted that the state should play a leading role in the protection, use and reproduction of forests. To what extent such activity of the state, which is enshrined in the relevant regulations, is effective.

Recent publications review. Such scientists as M. Byzova, A. Golovko, A. Deineka, V. Kurilo, Ya. Lazarenko, P. Melnyk, I. Sinyakevych dealt with separate issues of this topic., Yu. Shelyag-Sosonko and others.

The article's objective. The task of the article is to determine how effective the role of government agencies is in forest resource management.

Discussion. The main discussions revolve around another question - how strong should be the influence of the state in this area. According to some views, reflected in particular in the German model of forestry, the role of the state is nothing more than the role of a kind of "forest police". That is, it consists in professional management in state forests and in providing services to other forest owners and society in general. The state should promote forestry at all levels through research, education, information support, forest management, statistics, and the establishment of common standards. Financial incentives are reduced to investments dictated by acute public needs and which are impossible without public assistance. Funds can be provided for structural improvements, such as silvicultural works, road construction, as well as to overcome the effects of natural disasters or pollution. However, they do not allow direct intervention of state bodies, for example, in the regulation of prices or earnings in the private or communal sector [1, p. 183-187].

According to the scientist A. Hetman, the complexity and versatility of management in the field of ecology, which are due to the fact that "… on the one hand, should take into account objective, spontaneous processes of self-government in nature, and on the other - the need for targeted environmental management. The object of management is relations in the field of society and relations in the field of the natural environment, which do not coincide with the laws of human development. Therefore, "society should determine the main activities of public administration and public organizations in solving problems of environmental protection and environmental management, develop and implement an appropriate system of measures aimed at implementing the tasks set in the field of environmental management, provide them with state and legal support" [2].

According to other views, public authorities should be involved as widely as possible in forestry, logging and processing of forest products, as well as pricing. The main argument is that the state should control the behavior of private entities to ensure its compliance with the public interest. Regulation aimed at preventing or correcting of market failures is of particular importance in this case.

This approach is common in Canada and to a much lesser extent in other Western countries. As agents representing the interests of the forest owner (citizens of the state in general), public authorities control the management and use of state forests by issuing various permits and concluding contracts, an integral part of which are clearly defined conditions and time limits. These legal acts allow state bodies to control the volume and structure of the use of natural resources on public lands, to establish forestry standards and to influence the distribution of financial revenues from the use of forests.

It is obvious that Ukrainian legislation follows a different model. So in accordance with Art. 25 of the LC of Ukraine, the main task of state regulation and management in the field of forest relations is to ensure effective protection, proper protection, rational use and reproduction of forests. And this goal is achieved by forming and defining the main directions of state policy in the field of forest relations; determination by law of the powers of executive bodies and local self-government bodies; installation in accordance with the law of order and rules in the field of protection, preservation, use and reproduction of forests; implementation of state control over the protection, defense, use and reproduction of forests [3, Art. 691].

The organizational model of state regulation and management in the field of public relations for forests in Ukraine, as in other countries, is characterized by a significant number and heterogeneity of its constituent entities.

Along with public administration, it covers local governments. In addition, the territorial scale of their activities and the internal structure of the organization are different. Along with the specially authorized central executive body for which such activity is the main task, this includes central executive bodies with sectoral and functional powers.

Thus, the Verkhovna Rada of Ukraine in this area determines the principles of state policy in the field of forest relations; adopts laws regulating relations in this area; approves national programs on protection, protection, use and reproduction of forests (Article 26 of the LC of Ukraine).

The Forest Code of Ukraine (Article 33) provides for a certain amount of powers in the field of forest relations for village, settlement and city councils. They decide on the allocation in the prescribed manner for long-term temporary use of forests of these forest areas, and terminate the rights to use them; take part in the implementation of measures for the protection and preservation of forests, the elimination of the consequences of natural phenomena, forest fires, involve in the prescribed manner in these works of the population, vehicles and other technical means and equipment; organize the improvement of forest areas; establish the procedure for the use of funds allocated from the local budget for forestry.

In Ukraine, executive bodies of general competence, for which management in this area is only an integral part of a broader activity, are the Cabinet of Ministers of Ukraine, the Council of Ministers of the ARC and local state administrations. The Cabinet of Ministers of Ukraine, the highest body in the system of executive power, ensures the implementation of state policy in the field of forest relations; directs and coordinates the activities of executive bodies in the organization of protection, conservation, use and reproduction of forests; ensures the development and implementation of national programs for the protection, conservation, use and reproduction of forests; approves state programs for protection, protection, use and reproduction of forests [3, Art. 691].

The Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations in the field of forest relations within the limits of their powers on their territory ensure the implementation of the state policy in the field of forest relations; … Ensure the implementation of measures for protection and preservation of forests, set a limit on the use of forest resources in the procurement of secondary forest materials and the implementation of secondary forest uses; set maximum rates for free collection of wild herbaceous plants, flowers, berries, nuts, mushrooms, etc.; resolve other issues in the field of forest relations in accordance with the law (Article 31 of the LC of Ukraine).

District state administrations, which exercise executive power on the territory of the respective administrative-territorial unit and exercise the powers delegated by the relevant councils, ensure the implementation of state policy in the field of forest relations; participate in the development and implementation of regional (local) programs for the protection, conservation, use and reproduction of forests; participate in the implementation of measures for the protection and preservation of forests, etc. (Article 32 of the LC of Ukraine).

Having analyzed the powers of state bodies in the field of forest resources management, it can be argued that in modern conditions the mechanism of public administration has significant shortcomings and needs further improvement. In the division of competence between these state bodies, the principle of balancing powers has been violated. Thus, today in Ukraine continues to operate inherited from the Soviet Union system of forest management and forestry, which is characterized by concentration of forest and forest management functions within one management entity - the State Forestry Agency of Ukraine. The powers of the State Forestry Agency include planning, regulation, standardization, implementation of forest policy, control, i.e. the State Forestry Agency carries out management in the field of forest protection, and the Ministry of Agrarian Policy and Food is authorized to carry out general formation and determination of forest policy State Forest Agency.

Thus, the role of the state in establishing the principles of sustainable development of forests, in general, is to achieve the harmonious development of environmental, economic and social properties of forests. The leading place is occupied by the law-making function of the state, as forest legislation is the legal basis of the state forest policy and its coordination with the state policy in other areas.

The functions of implementing forest legislation and monitoring its implementation are to ensure compliance all forest owners, forest users and other entities whose activities affect the state of forests, legal norms and provisions of forest policy. The functions of the state as the owner of forests are to ensure compliance with the principles of sustainable development of

these forests, i.e. the preservation of their environmental and social value, as well as profit from them. The function of state support of the needs of the forestry industry includes scientific work and professional education; statistics, forest management and planning; consulting services; fire and phytosanitary control; quality control of seeds and planting material.

However, the influence of the state on the state of forests is not limited to the implementation of the above functions. In a broader sense, the state acts as a driver of social and economic progress in the field of protection, use and reproduction of forests, which is reflected in the creation of the necessary public institutions, attracting investment, development of appropriate infrastructure.

The state interacts with the private sector in various ways to establish the principles of sustainable forest development. First of all, the state performs functions that this sector cannot perform due to the lack of market incentives (maintains recreational and protective forests, protects lands, increases their productivity, etc.). In addition, the state establishes the conditions under which the private sector manages its own forests and uses public forests. The state protects forest resources to meet public needs, regardless of who owns the forests. To this end, the legislation imposes appropriate restrictions on the use and disposal of forests.

As follows from the above list of functions of the state, we can distinguish two types of influence of the state on public relations in relation to forests. First of all, through the powers deriving from state ownership of forests, as well as exercising power. In turn, public authorities can exercise their powers by applying two main approaches to influencing public relations in relation to forests.

The first is the regulatory (command-administrative) approach. It relies on direct legal regulations and administrative controls to curb undesirable trends in the market. The main drawback of the regulatory approach is that the proper behavior of actors is not achieved through economic incentives, but through the threat of sanctions. At the same time, those who have reached a level that exceeds the minimum set by the state have no advantages.

Instead, the essence of market relations is that the improvement of production is properly rewarded, and therefore the subject's attention is constantly focused on finding new ways to improve. Therefore, another way to exercise power is to try to reconcile economic incentives with the public interest (in this case, the interests are reduced to proper forest management and use of forest resources). It follows that in order to successfully exercise power, it is essential to find out what should be left to the self-regulation of market forces and what is subject to direct administrative regulation.

Ideally, the functions of the state should be separated as fully as possible from the functions of the private sector. This would allow public institutions to be a completely impartial arbiter of interest groups, governed exclusively by law. If the law does not specify clearly defined ways to resolve disputes, the goal should be to achieve the highest possible level of public consent. However, such a scheme cannot be put into practice, as some of the functions of the state are not fully compatible with each other, or even directly contradict each other or the functions of the private sector.

The state, in particular, is the largest owner of forests with relevant interests. Like any other owner, it is interested in maintaining and multiplying the value of this type of real estate, as well as making the most profit from it. At the same time, social and environmental demands of society counterbalance these interests. Thus, the state will be able to achieve its goals in regulating public relations in relation to forests only by balancing economic interests with other social needs.

Usually, the state of forests is influenced by three main state structures, which embody the diversity of its interests in forests. The interests of institutions performing fiscal functions (tax authorities, the Ministry of Finance) are to ensure the largest possible current financial revenues from the forest sector to the state treasury. Bodies representing the interests of industry (primarily the Ministry of Economy and the Ministry of Agriculture) are objectively interested in ensuring industry with a significant amount of cheap raw materials, introducing an "agronomic" type of forest management. And environmental authorities aim to ensure compliance with the high environmental standards provided by national legislation and international legal instruments.

There is no doubt that all of these interests are vital to society, so they are informally supported by a much wider range of stakeholders. At the same time, maintaining the overall balance between these forest interests is not the main task of any of these bodies. Therefore, the state as a whole, as a single institution, must take care of such a balance.

From an administrative point of view, this can be achieved by distributing the functions

of the state in the field of forestry among existing state institutions, restructuring these institutions or creating new ones. There are four main organizational models of public management of protection, use and reproduction of forests in the modern world.

The first (typical of Argentina) involves the division of functions between two agencies: the Ministry of Economy (Finance, Planning) is responsible for the use of forests, and the Ministry of Environment is authorized to protect forest ecosystems. In this case, acute conflicts of interest of these agencies excessively complicate the management decision-making process.

In countries such as Zambia, forest issues are the sole responsibility of the Ministry of the Environment. Under such an organization, forests are considered, first of all, as a resource of national importance that performs important non-commercial functions. Considerable attention is paid to environmental issues. The disadvantage of this model is that command-and-control approaches to forest policy prevail and economic interests are not sufficiently taken into account. The needs and aspirations of the local population can also be considered insignificant compared to the national environmental objectives [4, p. 35-36].

In some countries (USA, Japan, Latvia) forestry issues are the responsibility of the Ministry of Agriculture. Under such a structure, forestry is usually given a secondary role. Forest policy is influenced by a much more powerful agricultural lobby. Much of the revenue from forestry is transferred to other sectors that are under the jurisdiction of the same ministry and have more attention for economic or political reasons.

It is worth noting that this is how forest management was organized in the USSR in the late 1950s and early 1960s. These were difficult times for domestic forestry, as it was fully affected by the shortcomings of such an organizational structure [5, p. 352].

A kind of opposite is the model when a separate Ministry of Forestry (Switzerland, New Zealand) is organized. In this case, the industry usually has significant political and financial support, and policy is shaped by its characteristics and potential.

Conclusions. Thus, in many countries, forestry authorities are the oldest, largest and most influential agency in the field of natural resources.

Traditionally, this institution has the main authority to formulate and implement forest policy, as well as the direct management of a significant part of forest resources. Being organizationally separate, it has the opportunity to join one of the three above-mentioned state structures in a particular issue, when the general balance of public interests in relation to forests is disturbed, and thus restore the balance. This, however, does not exclude a possible discrepancy between departmental interests and public ones.

In addition, like any other institution, forestry authorities object to any restriction of their powers, even if it is appropriate in the public interest. It is clear that the above description of the organizational models of the system of state bodies involved in forestry can not claim universality and completeness. These advantages and disadvantages are not always clear, as in many cases the formal organizational model is less important than other factors, such as the availability of political support, the internal hierarchical structure of forestry bodies, interdepartmental competition, efficiency, professional competence and initiative, number of employees, proper remuneration, etc.

It can also be argued that in our country there is a very extensive system of government control over activities in the forest sector. But its effectiveness is low, because illegal deforestation is carried out en masse, and the authorities that are supposed to monitor it do not seem to notice anything, or officials who depend on the solution of a particular issue decide them in their favor, not in favor of the state. Such cases are not uncommon - mostly mass. Therefore, we need to change and improve this control system - otherwise we may be left without forests. This in turn affects the ecological environment of citizens and their lives and health.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Юрій КОРНЄЄВ

ЕФЕКТИВНІСТЬ ДІЯЛЬНОСТІ ДЕРЖАВНИХ ОРГАНІВ ВЛАДИ В ГАЛУЗІ ОХОРОНИ ТА ВИКОРИСТАННЯ ЛІСОВИХ РЕСУРСІВ

Анотація. Метою зазначеної статті є встановити наскільки ефективно здійснюється державне регулювання та управління у сфері лісових ресурсів з метою забезпечення їх охорони, належного захисту, раціонального використання та відтворення. Визначити повноваження державних органів влади стосовно управління лісовими ресурсами. Встановити функції державного управління лісовими ресурсами. Здійснити аналіз основних завдань державного регулювання та управління у сфері лісових відносин.

Методика включає комплексний аналіз та узагальнення наявного науково-теоретичного матеріалу та формулювання відповідних висновків та рекомендацій. Під час дослідження використовувались наступні методи наукового пізнання: термінологічний, логіко-семантичний, функціональний, системно-структурний, логіко-нормативний.

В результаті проведеного дослідження встановлено, що в нашій країні дуже розгалужена система контролю державних органів за діяльністю в лісовій галузі. Але ефективність її низька, тому що масово здійснюються незаконні вирубки лісу, а органи які мають за цим слідкувати начебто нічого не помічають, або чиновники від яких залежить вирішення того чи іншого питання вирішують їх на свою користь, а не на користь держави – тобто чиновники самі здійснюють протизаконні дії. Нажаль такі випадки є непоодинокі – в більшості своїй масові. Тому виникає необхідність змінювати, удосконалювати і підвищувати ефективність контролю як безпосередньо з боку органів державної влади так і самих цих органів. Зволікання може привести до знищення лісів, тварин, екологічної мережі, що в свою чергу впливає на екологічне довкілля громадян та їх життя і здоров'я.

Наукова новизна: в процесі дослідження встановлено, що система державного управління лісовими ресурсами є неефективною і потребує удосконалення.

Результати дослідження мають практичну значимість та можуть бути використані у правотворчій та правозастосовній діяльності під час реалізації заходів охорони, використання та відтворення лісових ресурсів.

Ключові слова: *ліс: лісові ресурси; державне управління; охорона лісів; використання лісових ресурсів; раціональне використання лісів; охорона лісів.*

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INTERNATIONAL LEGISLATIVE BASIS OF SOCIAL WORK WITH MIGRANTS AND REFUGEES IN GERMANY

Abstract. The article deals with an acute issue of legal basis of social work with migrants and refugees in Germany. The basis of the migration policy of this country is international and bilateral regulations. Among them, the author highlights the laws and regulations of the Council of Europe, the UN, ratified by the German government, such as the Universal Declaration of Human Rights, the International Convention for the Protection of All Migrant Workers and Members of Their Families, the Treaty establishing Rome, the Schengen agreement, the Hague Program, the Blue Card of the European Union, etc. In the article the bilateral European treaties between the member states of the European Union are also analyzed.

Keywords*: international law, social worker, migrants, refugees, European Union.*

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