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ENVIRONMENTAL EDUCATION FOR SUSTAINABLE DEVELOPMENT IN INTERNATIONAL AND UKRAINIAN LAW

The issue of education for sustainable development (ESD), environmental education (EE), environmental education for sustainable development (EESD) and their interconnections with international and national law is two-fold. On the one hand, EE is the groundbase for environmental legal awareness and environmental legal culture of jurists and law-makers at the global, regional and national planes. International and national law must respond to environmental problems caused by human activity but legal rules can't cope with environmental degradation and depletion of natural resources solely by their own means. More powerful instrument is needed that could influence human consumerism thinking and lifestyle. It is obviously environmental education for sustainable development. On the other hand, international and national law can help to make EE more available and effective. Law with its "stick and carrot" approach encourages states as well as individuals to follow legal rules including those relating to EE and implement them properly to achieve the required result, which is the introduction of environmental component into the educational systems at all levels. As Walter Leal Filho and Paul Pace rightly noted, "... the various levels of decision-making on educational policies, and traditional curricular structures are still presenting challenges for learners to develop (and transfer) competences in sustainable development. The experiences ... evidence that fast, effective and institution-wide change towards ESD ... was always catalyzed by legislation that spurred institutions to address their inertia and disciplinary traditions. Without this "political" motivation systemic change towards ESD is a more laborious and isolated experience that is vulnerable to changes in administration, staff mobility and available resources"¹. Indeed, law is a potential stimulus converting the aspirations for EE, ESD and EESD in international recommendations, declarations, outcome documents, etc. into practice, namely into the system of education.

The issue was deeply considered in the works of Ukrainian (N. Filyanina, V. Shmatko, J. Nikitin, G. Balyuk, O. Bondar, V. Baranovska, O. Jeresko, etc.) and foreign researchers (W. Filho, P. Pace, J. Palmer, Ch. Saylan and D. Blumstein). All these works made a huge contribution into the understanding of ESD peculiarities and principles. However, they lack legal analyses of ESD and consideration of the process of implementation of its standards into national legal system. Our article's objective is to consider EESD and EE as integral parts of the ESD, and environmental *legal* education for sustainable development as an integral part of EESD from International Law and Ukrainian perspectives.

There are plenty of international recommendatory acts encouraging states to cooperate and develop national legal and institutional framework in the field of environmental and/or environmental legal education: Principle 19 of the Stockholm Declaration on Human Environment (1972), "Belgrade Charter: A Global Framework for Environmental Education" (1975), Tbilisi Declaration and Recommendations (1977), Principles 10 and 21 of the Declaration on Environment and Development (1992), Chapter 36 of Agenda XXI (1992), Dakar Framework for Action (2000), the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (1992), Paragraph 18 of the Johannesburg Declaration (2002), UNECE Strategy for Education for Sustainable Development (2005), Bonn Declaration (2009), Paragraphs 11, 51, 62, 109, 114, 178, 229–235 of the outcome document of the UN Conference on Environment and Development "The Future We Want" (2012), Tbilisi communiqué (2012), Global Action Programme on ESD (2014). The Sustainable Development Goals build on the Millennium Development Goals and Education for All Goals contain as a proposed goal, "Ensure inclusive and equitable quality education and promote life-long learning opportunities for all" together with the following target: by 2030 ensure all learners acquire knowledge and skills needed to promote sustainable development.

The launch of the Decade for Education for Sustainable Development in 2005 marked the beginning of 10 years of an explicit global movement towards improving and reorienting education systems towards sustainable development, building on earlier commitments to education for sustainable development in Agenda XXI². Through the adoption of Resolution 57/254 in 2002, the UN General Assembly declared the Decade for Education for Sustainable Development, to take place from 2005 to 2014 and tasked UNESCO as the lead agency. UNESCO framed its efforts to promote ESD within an International Implementation Scheme, approved by Member States to facilitate collective ownership of the Decade for Education for Sustainable Development and to connect various global initiatives to promote education, including the Millennium Development Goals, Education for All and the United Nations Literacy Decade³.

At all United Nations conferences, regardless of the subject under consideration (environment, population, social development, human rights and democracy, women, and habitat), sustainable development has been a common concern and there has also been a consensus that education is a driving force for the change needed⁴. The recommendatory acts approved by the conferences in Stockholm, Rio de Janeiro and Johannesburg, though not having legally binding force, but because of the active and broad fixing of their certain provisions in international treaties, international case-law and national legislation and case-law of states they can be claimed to have proved the existence of certain rules of international law or served as a means of interpretation of existing international legal rules. Like Agenda XXI, these declarations and their provisions on ESD though not obligatory for states but have moral and political value.

Provisions of multilateral environmental agreements on EE or EESD are less detailed than those of recommendations and declarations, but they impose legal obligations on states. Many multilateral environmental agreements provide for legal obligations of States to promote environmental education in relevant fields. Similar articles on environmental education, training and public awareness were introduced into the three Rio Conventions: Articles 4 (1)(i) and 6 of the UN Framework Convention on Climate Change (1992), Articles 12 and 13 of the UN Convention on Biological Diversity (1992) and Articles 4 (a), 8 (1) and (3) (b), 10 (4), 11 (d) and 19 of the UN Convention to Combat Desertification (1992). Such obligations are also provided in Articles 3 (3) and 9 (1) of the Berne Convention on the Conservation of European Wildlife and Natural Habitats (1979), Article 13 of the Framework Convention for the Protection and Sustainable Development of the Carpathians (2003), Article XIII of the African Convention on the Conservation of Nature and Natural Resources (1968), preambular and Article 3 (3) of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998), Article 6 of the European Landscape Convention (2000), Article 23 of the Cartagena Protocol on Biosafety (2000) to the Convention on Biological Diversity, Articles 5 (a)(4) and 10 of the Stockholm Convention on Persistent Organic Pollutants (2001), Article 10 (4) of the Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and Their Disposal (1989), Article 6 of the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution (1998), Article 5 of the Protocol to Abate Acidification, Eutrophication and Ground-Level Ozone to the Convention on Longrange Transboundary Air Pollution (1999, as amended on 4 May 2012), Articles 9 and 10 (1)(c) of the Protocol on Water and Health to the 1992 Convention on the Protection and Use of the Transboundary Watercourses and Lakes (1999), Article III of the Agreement on the Conservation of Populations of European Bats (1991), Articles 2(1)(c) and 10(2)(f) of the North American Agreement on Environmental Cooperation (1993), Articles 9 and 16(1)(d), para. 7 of the Annex of the Agreement on Transboundary Haze Pollution (2002), para. 2 of the Annex XII of the Convention on the Transboundary Effects of Industrial Accidents (1992), Article 10(e) of the Kyoto Protocol (1997), Articles 11(1) and 12 of the Paris Agreement (2015).

These instruments usually comprise one article named “Awareness raising, education and public participation”, some of them call just one of the listed components: public awareness raising (the Basel Convention, the POPs Protocol, the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, the Agreement on the Conservation of Populations of European Bats) or education (the African Convention), some add another components such as training, research, development and information (the Protocol on Water and Health, the Convention on the Transboundary Effects of Industrial Accidents) or capacity-building (the Convention to Combat Desertification). Some treaties separately stress the importance of promoting related education curricula and programmes (the UNFCCC, the Convention on Biological Diversity, the Carpathian Convention, the African Convention, the Stockholm Convention, the Convention to Combat Desertification), including in school and university courses (the Landscape Convention); some emphasize the need to elaborate relevant policies and laws (the Carpathian Convention) or to establish information centres at national and regional levels (the Stockholm Convention). Many put the close link between EE, environmental awareness among the public and the right to access to information, to participate in decision-making and to obtain access to justice in environmental matters (the Aarhus Convention, the UNFCCC, the Biosafety Protocol, the Stockholm Convention, the POPs Protocol, the Kyoto Protocol, the Paris Agreement). These multilateral environmental agreements pay considerable attention to EE, training and awareness raising of policy and decision makers (the Stockholm Convention, the Convention to Combat Desertification), private sector (the Landscape Convention), workers, scientists, educators and technical and managerial personnel (the Stockholm Convention), professional and technical staff (the Protocol on Water and Health), scientific, technical and managerial personnel (the UNFCCC). We must separately stress the obligations of states contained in the North American Agreement on Environmental Cooperation to promote education in environmental matters, including environmental law(!). Some treaties provide the obligations of states to make arrangements for relevant training, education and

awareness-raising campaigns (the Agreement on Transboundary Haze Pollution), many stress the importance of providing a list of experts or establishing special centres for the purpose of relevant training, education and awareness-raising campaigns (the Agreement on Transboundary Haze Pollution), some emphasize the need to cooperate in and promote at the international level the development and implementation of education and training programmes (the Kyoto Protocol), to exchange or secondment of personnel to train experts in the relevant field (the UNFCCC, the Kyoto Protocol) or to cooperate in and promote at the international level the development and exchange of educational and public awareness material (the UNFCCC). Some treaties pay a special attention to the participation of NGOs in the process of EE or ESD (the UNFCCC). Some of these treaties' preambulars stress the importance and value of natural resources and environment from environmental, ecological, economic, social, genetic, nutritional, scientific, cultural, aesthetic, recreational, as well as educational point of view, for example, the African Convention on the Conservation of Nature and Natural Resources, Bonn Convention on the Conservation of Migratory Species of Wild Animals (1979), Convention on Biological Diversity, etc.

It should be noted that Ukraine lacks National Strategy for Environmental Education or ESD, or EESD. Some their aspects can be derived from other legal acts which can be divided into three parts. The first part is legislation on environmental protection containing rules on education, awareness raising and public information in this sphere: Law "On Basic Principles (Strategy) of the National Environmental Policy of Ukraine till 2020" (2010), Articles 7 and 9 of the Law "On Environmental Protection" (1991), Articles 9, 12, 16, 20, 23, 31, 35, 48, 58 of the Law "On Nature Reserve Fund of Ukraine" (1992), the Regulations on the Ministry of Environment and Natural Resources of Ukraine approved by the Cabinet of Ministers of Ukraine Decree No. 32 (2015), the Regulations on Environmental Educational and Awareness Activities of Nature Reserve Fund Institutions approved by the Ministry of Environment and Natural Resources Order No. 399 (2015), the Licensing Conditions of Economic Activity on Hazardous Wastes Management approved by the Cabinet of Ministers of Ukraine Decree No. 446 (2016), the National Plan of Action on Combating the Land Degradation and Desertification approved by the Cabinet of Ministers Order No. 271-p (2016).

The second part is Ukrainian legislation on education containing rules on environmental protection: Article 35, 56, 59 of the Law "On Education" (1991) Article 3 of the Law "On Secondary School Education" (1999), Articles 15 and 18, 27 of the Law "On Out-of-School Education" (2000), Articles 3, 18 and 26 of the Law "On Higher Education" (2014), the National Strategy on the Development of Education in Ukraine for the period till 2021 approved by the President Decree No. 344/2013 (2013), the Concept and Measures on National Patriotic Education of Children and Youth approved by the Ministry of Education and Science Order No. 641 (2015), the Strategy of Librarianship Development till 2025 "The Qualitative Changes of Libraries for the Sustainable Development of Ukraine" approved by the Cabinet of Ministers of Ukraine Order No. 219-p (2016).

The third part is legislation on EE, ESD or EESD: the Concept of Environmental Education of Ukraine approved by the College of Ministry of Education and Science of Ukraine No. 13/6-19 (2001), the Plan of Measures on Improving the Environmental Education, Awareness-Raising of the Population, Encouraging and Propagandizing the Economical Use of Water approved by the Cabinet of Ministers of Ukraine Order No. 537-p (2003), the Regulations on All-Ukrainian Forum of Young Ecologists approved by the Ministry of Education and Science of Ukraine Order No. 1289/1218 (2015), the Regulations on All-Ukrainian Union "Children's Environmental Parliament" approved by the Ministry of Education and Science of Ukraine Order No. 444 (2016). In 2002 the Parliament of Ukraine considered the draft Law of Ukraine "On Environmental Education" but without any results.

Concerning international cooperation of Ukraine in the field of EE we must note that on 16 September 2014 Ukraine ratified the EU-Ukraine Association Agreement which in Article 361 provides that cooperation shall aim at preserving, protecting, improving, and rehabilitating the quality of the environment, protecting human health, prudent and rational utilization of natural resources inter alia in the areas of environmental governance and horizontal issues, including education and training, and access to environmental information and decision-making processes⁵.

It is worth noticing that the Ministry of Education and Science of Ukraine is in process of elaborating new standards for higher education that are to be approved by the Minister for Education and Science of Ukraine, including educational standards in Law (081) and International Law (082) speciality. That's why it's quite important to introduce the environmental or sustainable development competencies therein. Environmental competencies can be defined as the ability to apply environmental knowledge and experience in professional and life situations taking environmental values as priority, recognizing one's involvement in environmental problems and responsibility for the environment because of professional and everyday activities⁶. Environmental competencies may be supplemented by sustainable development competencies promulgated through the UNECE Strategy for ESD (paras. 54–55).

According to the UNECE Strategy for ESD (paras. 28, 33 (a), (e), (f)) education should retain its traditional focus on individual subjects and at the same time open the door to multi- and inter-disciplinary examination of real-life situations. To be effective ESD should be addressed in two ways: through the integration of ESD themes across all relevant subjects, programmes and courses; and through the provision of specific subject programmes and courses, use a wide range of participatory, process- and solution-oriented educational methods tailored to the learner. Apart from the traditional ones, these should include among other things discussions, conceptual and perceptual mapping, philosophical inquiry, value clarification, simulations, scenarios, modeling, role playing, games, information and communication technology (ICT), surveys, case studies, excursions and outdoor learning, learner-driven projects, good practice analyses, workplace experience and problem solving; be supported by relevant instruction materials, such as, methodological, pedagogic and didactic publications, textbooks, visual aids, brochures, cases

studies and good practices, electronic, audio and video resources. Some elements of these requirements are met in educational process in the Institute of International Relations of Taras Shevchenko National University of Kyiv. Since 2007, the discipline “International Environmental Law” (IEL) is taught for Masters at the Department of International Law. Since 2013, this course has been divided into two parts: the first one considers general concepts and principles, history, institutional mechanism, sources of IEL, confrontational and non-confrontational means of IEL implementation; the second one is dedicated to the protection of the environment in relation to armed conflicts, international legal regulation of hazardous materials and activities, international protection of the marine environment, protection of international watercourses, combating air pollution and protection of outer space, international protection of biodiversity and polar regions, regional environmental cooperation including EU environmental law and national practice of Ukraine. Each part is supported by relevant instruction materials, namely textbooks approved by the Ukrainian Ministry of Education and Science, electronic resources and programmes. The programmes include questions for oral discussions and case studies – moot court cases on the relevant topics. Students are invited to choose one of the side (Applicant or Respondent) and prepare their arguments on the case.

On 29–31 January 2010 the first European Regional Rounds of the 14th Stetson International Environmental Moot Court Competition was organized and held at the Institute of International Relation. This Competition is organized annually by the Stetson University College of Law (Gulfport, Florida, the USA) under the auspices of International Law Student Association (ILSA). On 5–6 of December, 2014 the Institute of International Relations hosted the European Regional Rounds of the 19th Stetson International Environmental Moot Court Competition.

To sum up, we have to note that the environmental component of international cooperation in the field of education is provided by international legal acts of obligatory and recommendatory character, has institutional enforcement mechanism (UNESCO, UNEP, UNECE) and is implemented into national legislation. It should be noted that the provisions of the recommendations and declarations are more detailed, structured and extensive than those of the international environmental agreements, dedicated to environmental education. Multilateral environmental agreements provide for legal obligations of States to promote environmental education including environmental legal education in relevant fields. The scope of states’ obligations varies from treaty to treaty, but the most common feature is that the issue of EE (ESD and EESD) is closely linked to the issue of public awareness, public participation and right to environmental information. The ESD is deeply incorporated into the activities of multilateral environmental agreements’ bodies that started relevant ESD programmes.

Today Ukraine lacks a comprehensive National Strategy for Environmental Education (ESD or EESD). There is also no law on EE. Some its aspects can be derived from other legal acts such as laws and regulations on environmental protection and education in general. The Ministry of Education and Science of Ukraine is in process of elaborating new standards for higher education that are to be approved by the Minister for Education and Science of Ukraine, including educational standards in Law (081) and International Law (082) speciality. That’s why it’s quite important to introduce the environmental or sustainable development competencies therein.

We can advise the following recommendations to improve the environmental and environmental legal education in Ukraine: 1) to adopt Law on Environmental Education, National Strategy on Environmental Education (Education for Sustainable Development), which must integrate all the components of EE (environmental knowledge, environmental thinking, environmental outlook, environmental ethics, environmental culture) and all its forms (formal, non-formal and informal); 2) disciplines “Environmental Law” and/or “International Environmental Law” should be taught not only at the law but also at the economic faculties; 3) to widely introduce for law students one of the most effective way to promote the efficiency of EE – moot court competitions on environmental and international environmental law; 4) to fully implement the UNECE Strategy on ESD.

¹ Teaching education for sustainable development at university level. Eds. W. Filho and P. Pace. – Hamburg: Springer International Publishing, 2016. – 355 p., P. 3.

² Shaping the Future We Want: UN Decade for Education for Sustainable Development (2005–2014), Final Report. – Luxembourg: UNESCO, 2014. – 202 p., P. 16.

³ Ibid., P. 16.

⁴ Draft UNECE Strategy for Education for Sustainable Development [Electronic resource] / Economic Commission for Europe, Committee on Environmental Policy. – Addendum, CEP/AC.13/2004/8/Add.1, 18 May 2004. – Mode of access: https://www.unece.org/fileadmin/DAM/env/esd/01_Typo3site/ExplanatoryNoteENGcep.ac.13.2004.8.add.2.e.pdf

⁵ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, 2014 [Electronic resource]. – Mode of access: http://eeas.europa.eu/ukraine/docs/association_agreement_ukraine_2014_en.pdf

⁶ Бондар О. Екологічна освіта для сталого розвитку у запитаннях та відповідях: науково-методичний посібник для вчителів / О. Бондар, В. Барановська, О. Єресько та ін. – Херсон: Гринь Д. С., 2015. – 228 с. – С. 124.

Резюме

Медведєва М. О. Екологічна освіта для сталого розвитку в міжнародному та українському праві.

Стаття присвячена аналізу міжнародно-правових актів обов’язкового та рекомендаційного характеру, які сприяють формуванню та розвитку системи екологічної освіти на універсальному, регіональному та національному рівнях. У статті досліджуються елементи інституційного механізму цієї сфери, а саме діяльність ЮНЕСКО, ЮНЕП, СЕК ООН. Автор статті аналізує стан національного законодавства України в галузі екологічної (еколого-правової) освіти, а саме законодавство в сфері охорони довкілля, освіти загалом та екологічної освіти зокрема, надає рекомендації з підвищення ефективності національного механізму

му імплементації відповідних міжнародних стандартів, приділяє особливу увагу необхідності впровадження в Україні екологічних компетентностей в систему освіти, а також наводить приклад впровадження екологічної складової до системи вищої освіти в Інституті міжнародних відносин Київського національного університету імені Тараса Шевченка.

Ключові слова: міжнародне право, міжнародне співробітництво, право України, екологічна освіта, освіта для сталого розвитку.

Резюме

Medvedeva M. A. Экологическое образование для устойчивого развития в международном и украинском праве.

Статья посвящена анализу международных документов обязательного и рекомендательного характера, которые способствуют формированию и развитию системы экологического образования на универсальном, региональном и национальном уровнях. В статье исследуются элементы институционального механизма этой сферы, а именно деятельность ЮНЕСКО, ЮНЕП, ЕЭК ООН. Автор статьи анализирует состояние национального законодательства Украины в области экологического (эколого-правового) образования, делает рекомендации по повышению эффективности национального механизма имплементации соответствующих международных стандартов, уделяет особое внимание необходимости внедрения в Украине экологических компетентностей в систему образования, а также приводит пример внедрения экологической составляющей в систему высшего образования в Институте международных отношений Киевского национального университета имени Тараса Шевченка.

Ключевые слова: международное право, международное сотрудничество, право Украины, экологическое образование, образование для устойчивого развития.

Summary

Medvedieva M. Environmental education for sustainable development in international and Ukrainian law.

This article analyzes the international legal acts of mandatory and recommendatory character which contribute to the formation and development of environmental education at the universal, regional and national levels. The paper examines the elements of the institutional mechanism of this sphere, including UNESCO, UNEP, UNECE. The author analyzes Ukrainian national legislation in the field of environmental (environmental legal) education, makes recommendations to improve the effectiveness of national mechanisms of implementation of the relevant international standards, pays particular attention to the need for introduction in Ukraine of environmental competencies in the educational system, and gives the example of the implementation of the environmental component in the system of higher education in the Institute of International Relations of Taras Shevchenko National University of Kyiv.

Key words: international law, international cooperation, Ukrainian law, environmental education, education for sustainable development.

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О. О. ГРИНЕНКО

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ДОСТУП ДО ПРАВОСУДДЯ З ПИТАНЬ, ЩО СТОСУЮТЬСЯ ДОВКІЛЛЯ, В КОНТЕКСТІ ЗАКОНОДАВСТВА УКРАЇНИ ТА ЄВРОПЕЙСЬКИХ СТАНДАРТІВ

Одним із основних завдань у сфері екологічної політики для України є прискорений перехід до запровадження міжнародних принципів збалансованого сталого розвитку держави, який має поєднувати підвищення темпів економічного та соціального розвитку з поліпшенням стану довкілля, раціональним та ощадливим використанням природних ресурсів¹.

Невід'ємною складовою сталого розвитку є побудова справедливих систем правосуддя та підзвітних демократичних інститутів. Керуючись принципом верховенства права, необхідно створювати сприятливі умови для вільної, активної і реальної участі в цих процесах громадянського суспільства².

Наразі для України настав час для глибоких системних зрушень, які відповідають очікуванню українського суспільства щодо реалізації державної політики у сфері охорони навколишнього середовища. Як відомо, в Конституції України закріплюється право кожної особи на безпечне для життя і здоров'я довкілля та на відшкодування заподіяної порушенням цього права шкоди (ст. 50)³. Крім того, Основний закон гарантує кожному право вільного доступу до інформації про стан довкілля, про якість харчових продуктів і предметів побуту, а також право на її поширення. Більше того, така інформація ніким не може бути засекречена. Отже, екологічні права, закріплені в нормах Конституції України, являють собою якісну нову самостійну групу принципів, спрямованих на захист індивідуальних екологічних потреб і інтересів.

Як зазначається в Стратегії реформування судоустрою, судочинства та суміжних правових інститутів на 2015–2020 роки (далі – Стратегія), «судова система України та суміжні правові інститути існують для