

ON THE IMPLEMENTATION OF EU MARITIME DIRECTIVES IN UKRAINE

Fedoronchuk Natalia^{1,2}, Rubel Oleg³, Kukovska Tamara¹

¹ State Scientific Institution „Center for Problems of Marine Geology, Geoecology and Sedimentary Ore Formation of the National Academy of Sciences of Ukraine”;

² Odessa National I.I. Mechnikov University, Ukraine;

³ Institute of Market and Economic & Ecological Research of the National Academy of Sciences of Ukraine

Abstract: The main regulatory document establishing the basis for EU action in the field of environmental policy in relation to the marine environment is Directive 2008/56/EC (MSFD). The use of the marine environment, taking into account the ecosystem approach and the principle of integrated management, improves the environment, biodiversity, development of maritime industry. The Government of Ukraine has approved the Marine Environmental Strategy in order to implement the provisions of the EU Marine Strategy Framework Directive in Ukrainian legislation. This is provided by the environmental block of the Association Agreement between Ukraine and the EU.

Keywords: Environmental policy, marine environment, Marine Environmental Strategy, Ukraine.

Ukraine is a European country of the Black Sea basin, which de jure has the second largest maritime territorial exclusive and economic zone (EEZ) after Turkey, which before the annexation of Crimea was 135 thousand km². After the annexation of Crimea by Russia, this zone de facto shrunk and for eight years amounted to 44 thousand km². With the start of a full-scale Russian invasion of Ukraine on February 24, 2022, the situation with access to seawater for Ukraine has deteriorated, seaports in Ukraine have been blocked by Russian warships, part of the coastline in the occupied regions of Ukraine goes through significant changes that cannot yet be fully assessed.

However, Ukraine, as a country seeking to integrate into the European community, is on the path to complying with European norms and directives and adapting them to Ukrainian legislation, including environmental legislation, including norms for the Black Sea basin. In recent years, Ukraine has come a long way in this direction.

In 2014, Ukraine committed itself to adapting its legislation to 26 EU directives and 3 regulations. 4 EU directives that the country has committed to implement related to the environmental condition of the Black Sea and its catchment area, namely:

- Directive 2008/56 / EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (MSFD).

- Directive 2000/60 / EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (hereinafter referred to as the Water Framework Directive)

- Council Directive 91/676 / EC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources.

- Council Directive 91/271 / EC of 21 May 1991 concerning urban wastewater treatment.



The Association Agreement between Ukraine on the one hand and the European Union, the European Atomic Energy Community and its Member States on the other hand (the Association Agreement), which contained these commitments of Ukraine on the path to EU integration, was ratified by the Law of Ukraine on 16.09.2014 (Law of Ukraine №1678-VII).

Among the main documents regulating international relations and actions in the field of environmental policy in the Black Sea basin, to which Ukraine is involved, the following should be noted:

✓ The Convention on the Protection of the Black Sea against Pollution (also referred to as „Bucharest Convention”) – is the basic legal framework for regional cooperation to protect the coastal and marine environment, Bucharest convention was signed in Bucharest in April 1992, it was ratified and entry into force in Ukraine) on 14.04.1994.

– Strategic Action Plan for the Environmental Protection and Rehabilitation of the Black Sea (BS SAPIR), 2009. This document represents an agreement between the six Black Sea Coastal states (Bulgaria, Georgia, Romania, the Russian Federation, Turkey and Ukraine) to act in concert to assist in the continued recovery of the Black Sea.

– Strategic Research and Innovation Agenda for the Black Sea (SRIA). The SRIA aims to advance a shared vision for a productive, healthy, resilient and sustainable Black Sea by 2030, while considering the special and unique ecosystem characteristics of it. In particular, its unique biodiversity, cultural heritage sites and the new local, national and transboundary policy measures.

– Black Sea Integrated Monitoring and Assessment Programme (BSIMAP), 2009. BSIMAP aims at provisioning of sound and scientific data and information flow for the Contracting Parties underpinning State of the Environment of the Black Sea (SoE) and Implementation of the Strategic Action Plan for Environmental Protection and Rehabilitation of the Black Sea (BS SAPIR). It also, contributes to, inter alia, information sharing and decision making for Contracting Parties.

– Convention on the Conservation of European Wildlife and Natural Habitats (The Bern Convention). It is a binding international legal instrument in the field of nature conservation, covering most of the natural heritage of the European continent and extending to some States of Africa. Ukraine acceded to this convention in 1996. The Emerald Network is a system of protected areas and their management that are of particular value for the conservation of natural species of flora, fauna and habitat types (Areas of Special Conservation Interest, ASCI). Currently, a Law of the Emerald Network in Ukraine has been prepared and is awaiting Adoption in Parliament. The Emerald List includes the Big and Small Field of Zernov

– Convention on the Conservation of Migratory Species of Wild Animals,

– International Agreement for the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Adjacent Atlantic Ocean,

– Pan-European Strategy for Biodiversity and Landscape Conservation and others.

Ukraine's main goal in the field of environmental policy in the Black Sea basin is to achieve GES in the Ukrainian Black Sea sector in accordance with the Marine Environmental Strategy, which is taking into account the Water Framework Directive also.

The last important step towards the implementation of European norms in the legislation of Ukraine was the adoption of the Marine Environmental Strategy of Ukraine (Order of the Cabinet of Ministers of Ukraine № 1240-r, 12.10.2021), which defines the basic principles of environmental policy in Ukraine. Ukraine's Marine Environmental Strategy is designed to meet the requirements of the EU-Ukraine Association Agreement, in particular with regard to the implementation of the EU Marine Strategy Framework

Directive into The purpose of the Marine Environmental Strategy of Ukraine is to conserve and restore marine resources by initiating systematic and optimal approaches to the organization and implementation of state management of the environment of the Azov and Black Seas within inland waters, territorial sea, exclusive (marine) economic zone of Ukraine to achieve and support of GES of the marine environment. In the field of legal regulation of issues covered by the Strategy, the following legal documents of the Criminal Code of the Law of Ukraine are in force:

2. Water Code of Ukraine,
3. Law of Ukraine „On Environmental Protection“,
4. Law of Ukraine „On fisheries, industrial fishing and protection of aquatic biological resources“,
5. Law of Ukraine „On Aquaculture“,
6. GEZ Rules for the Protection of Internal Marine Waters and the Territorial Sea of Ukraine from Pollution and Clogging, approved by the Resolution of the Cabinet of Ministers of Ukraine dated February 29, 1996, No. 269.

In order to put into practice, the EU regulatory requirements for the last more than 10 years in the field of environmental monitoring, Ukraine has been guided by MSFD standards. Measures were taken to determine the basic ecological status and status of the Black and Azov Seas ecosystems within the exclusive (marine) economic zone of Ukraine, defined and approved HPP criteria for the Black and Azov Seas ecosystems within the territorial waters and the exclusive (marine) economic zone of Ukraine, indicators, the achievement of which should ensure the approximation of the ecological status and status of the ecosystems of the Black and Azov Seas within the territorial waters and the exclusive (marine) economic zone of Ukraine to the GES.

The basic organization responsible for the ecological monitoring of coastal waters and the marine environment in Ukraine is the Ukrainian scientific center of Ecology of Sea (UkrSCES) of the Ministry of Ecology and Natural Resources of Ukraine. UkrSCES monitored the ecological status of coastal and marine waters of the Black and Azov Seas in the Ukrainian segment, as well as watercourses of the Black Sea basin according to 11 MSFD descriptors, which include traditional environmental indicators such as chemical pollution of water and sediments, hydro-chemical parameters, including eutrophication parameters, water column biodiversity, benthic biocenoses and the state of marine habitats, and such new parameters for Ukrainian practice as marine litter (including microplastic), energy (including underwater noise).

The main obstacle to the implementation of monitoring measures was the lack of a scientific navy in Ukraine, which was almost completely lost due to the annexation of Crimea. After 2014, the Volodymyr Parshin became the main marine research vessel of Ukraine, capable of performing the tasks of marine environmental monitoring. However, since December 2009, this vessel has not been cruising due to the expiration of the Registration Documents, for the extension of which the vessel needs to repair and upgrade equipment. As a result, a small number of planned environmental monitoring stations located in coastal areas are currently available for monitoring. Scheduled monitoring was carried out at these stations. Environmental research within the high seas after 2014 in Ukraine was carried out only in the framework of international research projects (including the EMBLAS project) and was irregular. Ukraine has received the marine research vessel Belgica (renamed Boris Alexandrov) for research within the high seas with the help of the EMBLUS + project. The vessel needs to be repaired, but can be used for environmental research in the Black Sea after the war.



In addition, in the Black Sea there was a background environmental monitoring station of Odessa National University named after I.I. Mechnikov, which was located on the Snake Island. Currently, this station is lost due to active hostilities within the island and in the surrounding waters.

Despite some difficulties, UkrSCES conducted a baseline assessment of the ecological state of Ukraine's marine environment in 2020. The assessment was performed with varying degrees of detail on 9 of the 11 MSFD descriptors, with the exception of D2 Exotic species and D11 Energy supply, including underwater noise. According to the results of the assessment, the condition of most of the selected water bodies was assessed as good or satisfactory.

However, currently the processes of implementation of European regulations in Ukraine have stopped due to the full-scale invasion of the Russian Federation. In general, the goal of achieving good environmental status (GES) in the Black Sea basin, to which the Black Sea Basin countries have worked together for many trails, is currently threatened by the horrific military action in the Black Sea basin. Modern challenges dictate the conditions in the realities of wartime, now the question arises of the need to develop new approaches to assessing the environmental condition of the Black Sea.

The aggressor destroys not only human life, but also the environment. This carries new environmental risks that could also increase the number of human casualties in the future. According to the Geneva Convention (1 Protocol, 1977), crimes against the environment are part of war crimes.

There are also gross violations of the Bucharest Convention for the Protection of the Black Sea against Pollution. Since the first days of the war, shelling and bombing of industrial and energy facilities, arson and explosion of other infrastructure facilities in coastal areas, pollution of the Black and Azov Seas (mainly due to flooding mining) were recorded.

The International Agreement for the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Atlantic Ocean has been grossly violated. Military action and the use of powerful radar equipment lead the mass death of dolphins: in some parts of the coast, there are dead dolphins every 10 meters.

Currently, dozens of nature and biosphere reserves and national nature parks have suffered significant damage as a result of Russian aggression. Of particular concern is the destruction of Ramsar sites on the coasts on the Azov and Black Seas and in the lower Danube and Dnieper. Russia has also destroyed the Kinburn Reserve in the Kherson region.

At the beginning of the invasion, Russia also attacked Ukrainian Black Sea ports and civilian cargo ships, leading to fuel spills and chemical emissions, and shelling and burning naval depots on the coast.

According to many experts, after the fighting we will reap the fruits of war – the destruction of ecosystems, soil and water pollution, biodiversity loss and more. A significant amount of natural resources will be needed to rebuild the country. There is also a risk that Ukraine will not meet its climate goals due to climate change through military action, and the country's restoration will unavoidably lead to greenhouse gas emissions.

In the postwar period, it will be important to take care of an effective environmental monitoring system. This will record the real extent of the damage to the environment and will take the most effective measures to avoid further deterioration and to restore the ecosystem. The future Black Sea monitoring system should be cross-border, as the scale of the consequences of war goes far beyond the Ukrainian Black Sea sector. Only joint international efforts will be able to restore what was lost in achieving the dream GES in the Black Sea, although the deadline for its achievement will be postponed. The Black Sea must first and foremost be safe, without which the GES cannot be achieved.