

# THEORETICAL AND LEGISLATIVE APPROACHES TO THE USE OF CERTAIN TERMS AND CONCEPTS IN THE FIELD OF ENVIRONMENTAL SAFETY

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**Annotation.** The scientific article highlights the legislative and theoretical approaches to the use of certain terms and concepts in the field of environmental safety, on the basis of which proposals are made for their optimal use in the relevant normative legal acts and in scientific circulation. It is noted that the stability of information and legal support, including in the environmental sphere, is possible subject to the unification of legislative terms, a clear normative consolidation of their content in order to have the same understanding and application in practice. It is concluded that the identification of the concepts of “ecology” and “environment” is erroneous, because “ecology” is that part of it that concerns the natural component of the environment. In this regard, as well as in view of the need to bring national legislation to international standards in the sphere under study, it is more appropriate to use the synonymous term “environment” for the concept of “environment,” which would cover not only the natural component, but also the habitat of mankind as a whole. Arguments are given that the most acceptable title of the relevant section (Book) of the future criminal law, which would take into account the content and meaning of the terms used in it, characterizing first of all the generic object of criminal offenses in the studied sphere, is the title “Criminal offenses against nature and environmental safety.” Such a structural unit of the Special Part of the Criminal Code of Ukraine should contain both criminal offenses against environmental safety and torts against the environment, which are actually identified with criminal violations against the use of natural resources. After all, individual acts in this area can encroach both on relations against environmental safety and on the order of use of the state’s natural resources, while directly or indirectly affecting public health.

**Key words:** environment, safety, environment, criminal offences, natural resources.

## 1. Formulation of the problem.

Environmental protection is the main task of any state. At the present stage, scientists and practitioners are increasingly paying attention to environmental safety in connection with the presence of a real environmental hazard to the environment due to the action of many threats of natural, man-made and socio-political factors [1, p. 161]. The danger of destruction of dams, sewage treatment plants, nuclear power plants, dangerous and explosive enterprises as a result of missile and bomb strikes from the air or shelling from the ground - this is not a complete list of environmental challenges that our state is currently facing [2, p. 15].

Article 68 of the Law of Ukraine “On Environmental Protection” states that violation of the legislation of Ukraine on environmental protection entails disciplinary, administrative, civil and criminal liability [3]. As correctly noted by M.O. Akimov, defined in Art. 66 of the Constitution of Ukraine [4] the duty of everyone not to harm nature should be supported by such legal means that would provide a reliable preventive effect on potential violators and severely punish every really committed encroachment on the environment [2, p. 15]. Criminal liability for environmental offenses is provided for in section VIII of the Criminal Code of Ukraine, which contains a list of the most dangerous criminal offenses in the use of natural resources and environmental protection and establishes responsibility for their commission [5].

The question of the use of terms and their content has an important place in jurisprudence, including criminal law. Legal terminology is the tool that allows not only to formulate the content of a legal document, but also to ensure adequate awareness by the subjects of the content of the legal requirement [6, p. 7]. A clear conceptual and categorical apparatus is very important if the legislator aims at unification, harmonization of legislation, its compliance with European standards and traditions. Only such a system can ensure a uniform interpretation and correct application of legal norms [6, p. 213]. The concept is a means of expressing goals and defining objects of environmentally correct behavior, to achieve which their addressees and other subjects of legal relations should strive [7, p. 266].

There is no doubt that the stability of information and legal support, including in the environmental sphere, is possible on condition of unification of legislative terms, clear normative consolidation of their content. The lack of a clear legislative definition of individual concepts determines the need for scientists to search for author's approaches to their equal understanding and application.

In order to obtain a balanced answer to the question of the interpretation of the concepts of "natural environment", "environment", "environment" and "safety," as well as naming the corresponding Book of the Draft Criminal Code of Ukraine on environmental criminal offenses, which are divided into criminal offences against environmental safety and criminal offences against the use of natural resources, explore the etymology of these terms, which are used by scientists and developers of draft laws in the studied field.

## **2. Analysis of recent research and publications.**

Recently, there has been a significant increase in the attention of scientists and practitioners to the problems of the external form of law [6, p. 6-7]. Various aspects of the language of normative legal acts, their terminology were the subject of research by Yu.V. Baulin, V.V. Golina, V.K. Grishchuk, O.M. Dzhuzha, O.O. Dudorov, O.M. Kostenko, V.O. Navrotsky, V.Ya. Tacyj and others. However, in legislation and scientific research there are no uniform approaches to the interpretation of certain concepts in the environmental sphere, unreasonable use of synonyms is allowed, which significantly complicates the clarification of the concept and signs of the environment.

## **3. Forming the purpose of the article (setting tasks).**

The purpose of the article is to highlight the theoretical and legislative approaches to the use of certain terms and concepts in the field of environmental safety, on the basis of which to make proposals for their optimal use in the relevant normative legal acts and in scientific circulation.

## **4. Presentation of the main research material.**

The human right to a safe natural environment is a legal opportunity to live in an environment that does not harm its health and life, and in case of violation of this right, to demand its protection in accordance with the procedure established by law. This general definition covers all the main features of this subjective right: First, the right to live in a favorable natural environment, safe for human health and life; secondly, the right to demand the elimination of various obstacles in the exercise of this right in the manner prescribed by law; thirdly, the right to appeal to the relevant authorities for the protection of the violated right in order to restore it (restoration); fourthly, the protection of the violated right by establishing certain legal guarantees by the state [8, p. 148].

In literature, the "natural environment" is usually understood as that part of the earth's nature that is directly related to human life and economic activity, adapted to its vital needs. The natural environment forms the material basis of the existence of human society [9, p. 15].

Along with the concept of "natural environment", the terms "environment" and "environment" are widely used. The environment is a set of natural and natural-anthropogenic conditions (land, water, forests, subsoil, atmospheric air, flora and fauna) surrounding a person, interacting with him in the process of

production and non-production activities, and is necessary for his life and activity [10, p. 127]. Adding the word “natural” to the term “environment”, it emphasizes the presence of an important component of the environment - untouched and man-made nature as an object of legal protection [11, p. 68].

The generic object of environmental crimes (section VIII of the Criminal Code of Ukraine) [5] is the environment itself - the environment in which the object functions (air, water, land, flora, fauna, etc.). That is, everything that surrounds a person, and therefore can be interpreted as space and objects of the environment (natural environment, anthropogenic environment, industrial environment) [12]. The environment is a set of natural and natural-anthropogenic objects, which is a formative set of factors of influence on human life and health, and ensuring its favorability is the functional direction of the activities of state and local governments [13, p. 302]. In addition to the natural environment, the environment includes a set of anthropogenic conditions [14, p. 489] - artificially created by man material components, phenomena and processes [9, p. 15]. The environment consists of individual objects of nature, natural resources, landscapes and other natural complexes, ecological systems, mechanisms of interaction of its components, as well as the conditions of existence of everything on Earth.

It should be emphasized that the identification of the terms “environment” and “environment” does not always lead to the correct interpretation of these concepts, because the basis of the term “environment” is the environment and an inexhaustible number of components, but “environment” is actually nature in its pure form. Thus, “environment” has a synonymous meaning with the concept of “environment”, and is broader than the concept of “environment”.

In their works, some scientists prefer the concept of “environment”, pointing out the expediency of abandoning the use of the term “environment”, since in its lexical and semantic sense an attempt to translate the term “environment” is unsuccessful, the Ukrainian word “environment” is more successful in translating this term [15, p. 38 39].

In our opinion, taking into account international standards in the environmental sphere, the domestic legislator should use the term “environment” (as a synonym for “environment”) as one that meets international standards and the requirements of the Association Agreement of Ukraine and the European Union. In particular, in accordance with the Resolution of the Cabinet of Ministers of Ukraine “Some issues of optimizing the system of central executive bodies” of May 27, 2020 No. 425, the sphere of public interests in modern conditions includes: gradual associative approximation of Ukraine to the European community; intensification of political dialogue with the countries of the European Union; implementation of universally recognized democratic standards for the implementation of human rights and freedoms, including improving the national justice system and ensuring the rule of law and respect for the person; establishing close economic and trade relations in order to integrate Ukraine into the internal market of the European Union, to the legal doctrine of the European Union “*acquis communautaire*”; ensuring environmental protection standards, including the introduction of a system for assessing negative impacts on the environment in accordance with Western European standards [16].

Often the concept of “ecology” is mistakenly identified with the concept of “environment”, which, in our opinion, is not entirely correct, because this is the part of it that concerns the natural component of such an environment. In view of this, at the legislative level and in the scientific literature, it is more accurate to use the synonymous term “environment” for the concept of “environment”, the structural element of which is “environment”.

It should be noted that the fifth Book of the Project of the Criminal Code of Ukraine contains section 5.3, entitled “Criminal offenses against environmental safety”, which requires clarification of the essence of the concept of “environmental safety”. In addition, the right of citizens to a “safe environment” is established by the Constitution of Ukraine [4], and Article 9 of the Law of Ukraine “On Environmental Protection” refers to a safe environment for life and health [3].

Security is usually identified with security and is interpreted as “the level of protection of vital human interests, as well as society, the state, the environment from real or potential threats posed by anthropogenic or natural factors” [17, p. 21]. In essence, the phenomenon of safety is a subjective reflexive definition (design) of existence, mediated by the absence of danger [13, p. 9-10]. Thus, environmental safety is determined by the optimization of utility and hazard functions [1, p. 161]. In turn, the danger in this area

may arise in connection with the action of natural forces (natural disasters) and natural phenomena, a sharp violation of relationships in natural systems under the influence of anthropogenic factors, etc. [18, p. 14]. Thus, the safety of the environment is the state of its optimal functioning and development.

Unfortunately, legislation does not fully define the criteria for a safe environment. However, the very definition of the concept of "safe" indicates that the main criterion is the absence of danger, where such an "environmental condition is considered environmentally dangerous, in which the prevention of deterioration of the environmental situation and the emergence of a danger to human health" is ensured (Article 50 of the Law of Ukraine "On Environmental Protection") [3].

Analyzing the provisions of the Project, regulating legal relations in the studied sphere, we come to the conclusion, that their division into criminal offences against environmental safety and criminal offences against the use of natural resources is not indisputable, after all, individual acts are "complex" in nature and can encroach both on relations against environmental safety, and the order of use of the natural resources of the state, while directly or indirectly affecting public health. At the same time, the name of the relevant section of the future criminal law "Criminal offenses against nature and environmental safety" is considered the most acceptable.

## 5. Conclusion.

The identification of the concepts of "ecology" and "environment" is erroneous, because "ecology" is the part that concerns the natural component of the environment. In this regard, as well as taking into account the need to bring national legislation to international standards in the sphere under study, we consider more accurate the use of the synonymous term "environment" for the concept of "environment", which would cover not only the natural component, but also the anthropogenic, that is, the habitat of mankind as a whole.

We see that the most acceptable title of the relevant section (Book) of the future criminal law, which would take into account the content and meaning of the terms used in it, characterizing primarily the generic object of criminal offenses in the studied area, is the name "Criminal offenses against nature and environmental safety". Such a structural unit of the Special Part of the Criminal Code of Ukraine should contain both criminal offenses against environmental safety and torts against nature (the environment), which are actually identified with criminal violations against the use of natural resources. After all, individual acts in this area can encroach both on relations against environmental safety and on the order of use of the state's natural resources, while directly or indirectly affecting public health.

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