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DOI <https://doi.org/10.32842/2078-3736/2023.3.66>**LEGAL RESPONSIBILITY FOR THE POLLUTION OF MARINE SPACE  
BY HAZARDOUS WASTE: THE CURRENT STATE OF THE PROBLEM**

The purpose of the article is to characterize the current state of the problem of the application of measures of legal responsibility for the pollution of marine space by hazardous waste. The author of the article defined the European standards for the classification of waste and established the features of their classification into safe and hazardous. It has been established that oil and gas industry waste is classified as hazardous waste. Discharge of industrial and commercial waters directly into the sea or with river runoff is included in the problems of pollution of the sea space; arrival from land of various substances used in agriculture or forestry; intentional burial of pollutants at sea; leaks of various types in the process of ship operations; emergency emissions from ships or underwater pipelines; development of minerals on the seabed; transport of pollutants through the atmosphere. It was determined that the pollution of the sea space occurs mainly by allowing the leakage of products of the oil and gas industry into water resources, both during the transportation of such substances and during extraction. In order to prevent oil pollution of the sea, the need to improve the technological processes of extraction, transportation, storage, processing, use of oil or oil products, which will eliminate or minimize the discharge of wastewater containing oil, is justified. It is emphasized that protection of the marine environment should be carried out in a comprehensive way, while creating new technological processes, methods and means of pollution prevention, as well as improving the legal framework for limiting the release of oil and oil products into the sea. It was concluded that in order to prevent oil pollution of the sea, it is necessary to improve the technological processes of extraction, transportation, storage, processing, use of oil or oil products, to exclude the discharge of wastewater containing oil, and also to introduce mechanisms of responsibility for violations of the standards of such activities.

*Key words:* administrative responsibility, pollution, mechanism, marine space, hazardous waste, waste management.

**Легеца Ю. О. Юридична відповідальність за забруднення морського простору небезпечними відходами: сучасний стан проблеми**

Метою статті визначено здійснення характеристики сучасного стану проблеми застосування заходів юридичної відповідальності за забруднення морського простору небезпечними відходами. Автором статті визначено європейські стандарти класифікації відходів та встановлення особливостей їх класифікації на безпечні та небезпечні. Встановлено, що відходи нафтогазової промисловості відносяться до небезпечних відходів. До проблем забруднення морського простору віднесено скидання промислових і господарських вод без-



посередньо в море або з річковим стоком; надходження з суші різних речовин, які застосовуються в сільському або лісовому господарствах; навмисне поховання в морі забруднюючих речовин; витоку різних видів в процесі суднових операцій; аварійні викиди з суден або підводних трубопроводів; розробка корисних копалин на морському дні; перенесення забруднюючих речовин через атмосферу. Визначено, що забруднення морського простору відбувається переважно шляхом допущення витоку продуктів нафтогазової промисловості до водних ресурсів як під час транспортування таких речовин, такі і під час видобування. Із метою попередження забруднення моря нафтою обґрунтовано необхідність вдосконалювати технологічних процесів добування, транспортування, зберігання, переробки, застосування нафти чи нафтопродуктів, що виключить чи мінімізує скид стічних вод, до складу яких входить нафта. Підкреслено, що охорона морського середовища повинна здійснюватися комплексним шляхом, створюючи при цьому нові технологічні процеси, методи та засоби попередження забруднень, а також удосконалюючи нормативно-правову базу щодо обмеження викиду нафти та нафтопродуктів до моря. Зроблено висновок, що із метою попередження забруднення моря нафтою необхідно вдосконалювати технологічні процеси добування, транспортування, зберігання, переробки, застосування нафти чи нафтопродуктів, виключити скид стічних вод, до складу яких входить нафта, а також запроваджувати механізми відповідальності за порушення стандартів здійснення такої діяльності.

***Ключові слова:** адміністративна відповідальність, забруднення, механізм, морський простір, небезпечні відходи, управління відходами.*

**Formulation of the problem.** Constant reports of manifestations of man-made disasters occurring as a result of pollution of the marine space by products of oil production, which belong to the category of "hazardous waste", testify to the low legal effectiveness of the existing mechanisms of administrative and legal protection of the marine space, which is caused by the ongoing processes of the death of living resources of the Black and Azov Seas, a decrease in the quality of their water resources, which leads to significant losses to the economy and the sanitary-epidemiological state of our country, which actualizes the implementation of scientific and practical research in this area. Therefore, the issue of pollution of the marine space of Ukraine is relevant in today's conditions due to a combination of negative factors: contact with river runoff as a result of rains, mineral fertilizers and pesticides from fields, which causes intense flowering of water in the coastal strip; an increase in hydrogen sulfide and a decrease in oxygen in the Black Sea is due to the discharge of fecal matter into the sea. At the same time, identifying the offender in such cases is impossible due to the fact that the effluents can be from any source and therefore such torts are characterized by a high level of latency.

The state of scientific development of the problem. Emphasis should be placed on the significant contribution to the development of both general grounds for administrative liability for violations of the rules for protecting the coast of Ukraine from pollution and fouling, as well as the study of special issues related to administrative and legal measures to protect the sea coast of our country from pollution and fouling, which was carried out in scientific works of such scientists as General issues of ensuring the effectiveness of mechanisms of administrative responsibility were studied in the publications of such scientists as Y.P. Bityak, L.R. Bila-Tiunova, I.P. Golosnichenko, V.K. Kolpakov, T.O. Kolomoets, Y.N. Oborotov, A.A. Sharaya et al.. The issue of the use of marine resources in domestic legal science was considered in the publications of such scientists as: E.V. Dodin [1], L.O. Davydenko [2, p. 66-71], Yu.O. Legesa [3, p. 177-185], V.P. Oliynyk [4], A.O. Yarova [5] and others. However, at the same time, the accentuation of research attention on the search for ways to optimize the management of hazardous waste as a source of pollution of the sea space was carried out in a fragmentary manner, and determines the relevance of this publication.



The purpose of the article is to characterize the current state of the problem of the application of measures of legal responsibility for the pollution of marine space by hazardous waste.

Presenting main material. "Hazardous waste" in accordance with Directive 2006/12/EC of the European Parliament and of the Council of April 5, 2006 on waste [6] means waste that has one or more hazardous properties listed in Annex III, which have the following properties: explosiveness, which is understood to mean certain substances and preparations which can be destroyed by flame or are more sensitive to impact or friction than dinitrobenzene; oxidation as a characteristic of waste containing substances and preparations that exhibit strong exothermic reactions when in contact with other substances; flammability associated with the presence in the waste structure of liquid substances and preparations with a flash point below 21°C (including extremely flammable liquids), or substances and preparations that can heat up and finally catch fire in contact with air at ambient temperature without any application of energy, or solid substances and preparations which may ignite readily after brief contact with a source of ignition and which continue to burn or be consumed after removal of the source of ignition, or gaseous substances and preparations which are flammable in air at normal pressure, or substances and preparations that emit flammable gases in dangerous quantities when in contact with water or moist air. Also, according to Directive 2006/12/EC of the European Parliament and the Council of April 5, 2006 on waste [6], hazardous waste includes non-corrosive substances and preparations that, upon immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation. The danger of waste is characterized by the presence in its structure of: toxic substances and drugs (including very toxic substances and drugs), which, if inhaled, swallowed or penetrated through the skin, can cause serious, acute or chronic health risks and even death; carcinogenic substances and drugs that, when inhaled, swallowed or penetrated through the skin, can cause cancer or increase its incidence; caustic substances and drugs that can destroy living tissue upon contact; infectious substances and preparations containing viable microorganisms or their toxins, which are known or reliably believed to cause disease in humans or other living organisms; toxic substances and drugs affecting the reproductive function of living organisms; genetically modified mutagenic substances and drugs that, when inhaled, swallowed or penetrated through the skin, can cause hereditary genetic defects or increase the frequency of their occurrence.

According to the content of Annex III of Directive 2006/12/EC of the European Parliament and the Council of April 5, 2006 on waste [6], hazardous waste includes waste containing toxic or very toxic gases, which is detected when in contact with water, air or acid

Speaking about the responsibility of those responsible for the pollution and littering of the marine space of Ukraine, it is necessary first of all to understand where exactly this pollution comes from, that is, to highlight the sources of pollution of the marine space.

Among the problems of world ocean pollution, V. Serhiychuk includes:

- discharge of industrial and household waters directly into the sea or with river runoff;
- arrival from land of various substances that are used in agriculture or forestry;
- intentional burial of pollutants in the sea;
- leaks of various types in the process of ship operations;
- emergency emissions from ships or underwater pipelines;
- development of minerals on the seabed;
- transfer of pollutants through the atmosphere [7, p. 42].

The sources of environmental pollution in the port are ships of the transport and port fleet, intraport transport and lifting transport equipment. Complexes for transshipment of petroleum products, transshipment of bulk (bulk) and chemical cargoes constitute the greatest ecological danger of environmental pollution [7, p. 99].

Cruise liners are increasing in size and capabilities every year. Recreation at sea also provokes pollution of the sea space [8, p. 10].

Although the accumulation of plastic waste in the world's oceans is a truly global problem, it does not appear that the international community is close to agreeing on global traditional agreements to limit the production or trade of plastics, nor is it clear that such agreements can in any case prove useful and effective [9, p. 10].



Provisions on the protection of the marine environment are contained in the provisions of the UN Convention on the Law of the Sea of 1982 [10, p. 100; 11]. Provisions on the protection of the marine environment are also contained in the provisions of the UN Convention on the Law of the Sea.

On June 3, 1999, the Law of Ukraine "On the Ratification of the United Nations Convention on the Law of the Sea of 1982 and the Agreement on the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 1982" entered into force. Ukraine ratified the 1982 UN Convention on the Law of the Sea. and became its full participant, "a state that consents to the binding of this Convention for it and for which this Convention is valid" (item 1 part 2 of article 1) [12].

UN Convention on the Law of the Sea of 1982 identified the following sources of pollution of the marine environment (Chapter 5): a) sources located on land, including rivers, estuaries, pipelines and drainage structures (Article 207); b) pollution caused by activities on the seabed (Article 208); c) pollution caused by activities in the Area (under which Article 1 means the bottom of the seas and oceans and its subsoil outside the national jurisdiction) (Article 209); d) pollution caused by burial (under which Article 1 means any intentional removal of waste and other materials from ships, aircraft, platforms and other artificially constructed structures in the sea; any intentional destruction of ships, aircraft, platforms and other artificially constructed structures in the sea) (Article 210) e) pollution from ships (Article 211); f) pollution from or through the atmosphere (Article 212). That is, the 1982 UN Convention on the Law of the Sea identifies six sources of pollution of the marine environment, which significantly affect the ecological balance of the environment in general and the marine environment in particular [12].

Oil operations for receiving oil and oil mixture from tankers and ships can lead to pollution of the marine environment, in case of damage to the relevant structures and devices or their improper functioning, as happened in the accident of the Efenian Phase tanker in Odesa Oil Harbor [13, p. 10].

Resolution of the Verkhovna Rada of Ukraine dated March 5, 1998 188/98-BP "On the Main Directions of the State Policy of Ukraine in the Field of Environmental Protection, Use of Natural Resources and Ensuring Environmental Safety", identifies the main causes and sources of surface water pollution in Ukraine: soil erosion at the water intake square; there has been a trend towards significant pollution of water bodies as a result of unregulated drainage of sewage from settlements, economic facilities and agricultural lands; large-scale radiation pollution of many river basins as a result of the Chernobyl nuclear power plant disaster; the absence of an automated, continuously operating system for monitoring the ecological state of the water basins of the Black and Azov seas, the quality of drinking water and wastewater in the water supply and drainage systems of settlements and economic objects, etc. [14, p. 10].

As world practice shows, despite the efforts of scientists and entrepreneurs to find alternative types of energy, oil and raw products remain the most important form of energy influence on the development of world society and the economy as a whole [15, p. 53].

Taking into account the natural characteristics of the basins of the Black and Azov seas, the development of their mineral resources, exploration work and well equipment, geological exploration work, mineral extraction and the construction of underground structures for various purposes are carried out in Ukraine. A special danger in the development of offshore oil and gas deposits is the pollution of the water area during the production of drilling works, and the main pollutants are spent drilling fluids, waste water and drilling mud. The level of their toxicity in each specific case depends on the technology and geological and technical conditions of drilling [16, p. 39].

Collisions of ships and other maritime accidents, as a rule, occur near the coast, in places of intense traffic of ships. As a result of accidents, a huge amount of pollutants enters the world ocean. Especially catastrophic were the accidents: the supertanker "Torry Canyon" in 1967, when the southern coast of England was covered with approximately 120 thousand tons of crude oil; the Liberian tanker Acomo Cadiz in 1978, which spilled 220,000 tons of oil along the coast of the Brittany peninsula in France; of the American tanker "Exxon Valdis" in 1989, called the largest environmental disaster in the USA [17, p. 264].



Only in 1990, there were several significant accidents that led to large-scale oil pollution of marine spaces. For example, the explosion on the Cypriot tanker "Haven" led to the spill of 100,000 tons of oil in the Mediterranean Sea, the explosion on the Liberian tanker "ABT Summer" off the coast of Angola led to the pollution of the sea by more than 76,000 tons of oil [18, p. 26].

Some ways to solve the problems of pollution of the maritime space of Ukraine from ships are: ensuring a wider exchange of technical information, technologies and experience between countries as a result of the development of research programs; introduction of a more advanced level of organization, coordination and cooperation between institutions responsible for the protection of the water environment; ensuring the availability of equipment for monitoring and controlling pollution of the marine environment; ensuring timely environmental cleaning procedures; creating awareness among citizens, ship owners, ship crews, oil exploration companies, other corporate bodies that will take care and be responsible for the care and protection of the marine environment through their training and retraining, etc. [19, p. 66-67].

In 2018, the share of maritime shipping in the total volume of carbon dioxide emissions was approximately 23% of the total volume of emissions, and it may increase to 57% by 2030 [20].

Norms and standards of transnational environmental law (TEL), many of which are informal and voluntary in nature, contain a way to solve the problem of plastic pollution [10].

Therefore, in view of the variety of sources of pollution of the World Ocean, a comprehensive approach to establishing the content and mechanism of applying responsibility for manifestations of negative impact on the marine space is necessary. Responsibility, in turn, also has its manifestations and various types, depending on the scope of its application.

Thus, under legal responsibility is understood the negative influence provided by law on the offender on the part of specific state bodies, which are entrusted with the duty of applying measures of state coercion [21, p. 312-315]. Whereas social responsibility is the attitude of society towards the actions of a person from the point of view of his fulfillment of social norms. It is determined by the need to subordinate, coordinate and correct in the process of joint activity the actions of everyone with the actions of others, to reconcile the private interest with the general one. Types of social responsibility include: moral, religious, political, party [22, p. 25].

As a response to violations of rules and standards regarding the pollution of the World Ocean, various liability measures are applied. These measures affect, as mentioned earlier, technological, organizational, economic and legal aspects of water protection from pollution.

Measures related to the technological aspects of water protection from pollution are most interesting for ecologists, representatives of technical fields of knowledge and specialists who design and implement their developments in the construction of the fleet and coastal measures for the protection of marine spaces. Measures affecting the legal aspects of water protection from pollution are, of course, of interest to lawyers and practitioners of the application of legal measures, since legal responsibility differs from all other types of social responsibility in that it is based on regulatory requirements, which are provided, in necessary cases, by state coercion.

Conclusion. In order to prevent oil pollution of the sea, first of all, it is necessary to improve the technological processes of extraction, transportation, storage, processing, use of oil or oil products, to exclude the discharge of wastewater, which includes oil. After all, tens of billions of cubic meters of water-oil emulsions are formed annually as a result of technological activity. The methods of cleaning them from oil are expensive and inefficient, so wastewater containing oil is a source of global oil pollution of the hydrosphere, delivering about 75% of oil pollution to the world ocean.

Protection of the marine environment should be carried out in a comprehensive way, while creating new technological processes, methods and means of pollution prevention, as well as creating a regulatory and legal framework for limiting the release of oil and oil products into the sea. The sources of oil pollution of the marine environment and the factors affecting the form of pollution are very numerous, therefore the protection of the marine environment should be carried out in a comprehensive way, while creating new technological processes, methods and means of pollution prevention, as well as adopting laws on limiting the release of oil and oil products in sea.



In order to prevent oil pollution of the sea, first of all, it is necessary to improve the technological processes of extraction, transportation, storage, processing, use of oil or oil products, to exclude the discharge of wastewater containing oil, and to introduce mechanisms of responsibility for violations of the standards of such activities.

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