

THE EUROPEAN UNION'S LEGISLATIVE PROCESS IN THE AREA OF ENVIRONMENTAL PROTECTION IN THE CONTEXT OF THE EUROPEAN ENVIRONMENTAL POLICY

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ABSTRACT

Motives: This research paper analyzes the legislative process and the implementation of the European Union's (EU) environmental law as one of the principal tools for achieving and maintaining global ecological safety.

Aim: The study was undertaken to determine how the priorities of the EU's foreign and internal policy are reflected in the legislative process in the area of environmental protection. The problems associated with law enforcement and the implementation of EU legislative acts in national legislation were also examined, and the current state and prospects for policy-making in the area of environmental protection were assessed. The paper considers environmental policy issues and legal regulations in Azerbaijan in the context of EU experiences. The research covers political and legal relations.

Results: An analysis of the historical transformation of the EU's environmental law from an institutional and constitutional perspective was combined with an analysis of the principal aspects and the main trends in the EU's environmental governance and lawmaking. The EU's contribution to the development of environmental legislation highlights its approach to the multi-layered dimension of environmental governance internally, in terms of the dynamic relationship between the EU and the Member States, as well as internationally. The EU's policy and legal regulations in the area of environmental protection can serve as a reliable example for countries in which the environmental agenda has not yet received due attention. The above applies to both strategic planning, regulatory issues, and law enforcement practices.

Keywords: ecology, environmental policy, environmental protection, European Union, legal regulation

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INTRODUCTION

The sustainable expansion and consolidation of the European Union's (EU) environmental actions are inextricably linked and reflect the EU's evolution and transformation since its establishment (Heinelt, 2018). European integration has led to the gradual expansion of the EU's jurisdiction over legal relations beyond the strict scope of the original economic mandate (Sands, 2017). In the context of environmental protection, the absence of a specific legal framework in the original Treaty establishing the European Economic Community (EEC) did not prevent further EU initiatives in this area amid growing environmental concerns. The EU's environmental legislation and policy have evolved over the years from a fragmented and uncoordinated set of measures related to the principal goals of market integration to a complex and detailed system of environmental regulation and multi-level governance (Rehbinder & Stewart, 2020; Van, 2023).

At present, environmental protection is a vital area of the EU's actions both at the national and international levels (Sands, 2017). Over the past four decades, the EU has adopted several hundred environmental acts with varied legal force (European Parliament, 2023). The EU is a party to more than 60 multilateral environmental agreements, and it often strongly advocates for environmental standards in the relevant negotiations (European Commission, 2023b). The Treaty of Lisbon reaffirmed the EU's commitment to environmental protection and sustainable development. At the same time, the Treaty explicitly highlights the internal and external aspects of the EU's actions in this area (Vandermeersch, 2017). Meanwhile, many essential challenges must be addressed for the EU to play a meaningful role in protecting the environment and establish itself as a leader in global environmental governance processes. Moreover, the new framework of international law imposes obligations and rights on both state and their citizens, and the EU's environmental law provides additional legal tools to ensure the rapid and efficient application of international environmental law in the

EU and in every Member State (a phenomenon known as the "Europeanization of international law"). By becoming a part of the EU legal order, international environmental law takes precedence over the provisions of the EU Member States' national legislation (Davies, 2017).

The EU's experience in developing and implementing environmental policies is of interest to many countries, and it can serve as a guideline in the process of developing specialized policies and legislative regulations (Tsebenko et al., 2023). The above generates interest in the EU's legislative process in the area of environmental protection and the associated political priorities, in particular in countries transitioning to a market economy. In these countries, significant differences can be observed in the process of setting environmental goals, as well as the opportunities to achieve them (Van, 2023). Recent greening trends in almost all sectors of the EU economy and public life also have an impact on the EU's policy towards its neighbors, including the countries of the Eastern Partnership with transition economies. The inclusion of environmental and climate priorities in the EU's policies and the increase in their scope, including at the global level, was triggered by the implementation of the European Green Deal (EGD). The EGD will have an impact on the climate policy of the Eastern Partnership countries, such as Georgia, Moldova, Ukraine, Armenia, and Azerbaijan (Tsebenko et al., 2023). It is worth noting that Azerbaijan is particularly interested in the EU's experiences relating to the legislative process in the area of environmental protection. At present, Azerbaijan is facing environmental challenges associated with farmland degradation, management of solid and hazardous waste, and decrease in biodiversity. Azerbaijan is rich in oil and natural gas resources, which is why soil pollution with oil and oil products is a relevant issue (Bayramli, 2020; Umudov, 2021).

Therefore, the aim of this study was to analyze the legislative process and the implementation of the environmental law in the EU as one of the essential tools to achieve and maintain environmental security

at the global level. The problems associated with the environmental policy and legal regulations in Azerbaijan were considered in the context of the EU's experiences. The research objectives were to:

- 1) analyze the evolution of the European Community's general environmental policy and describe the main stages of the legislative process;
- 2) analyze the key principles of the EU's environmental law and the main goals and objectives of the EU's environmental policy;
- 3) analyze the EU's environmental regulatory framework.

The study was undertaken to determine how the priorities of the EU's foreign and internal policy are reflected in the legislative process in the area of environmental protection. The problems associated with law enforcement and the implementation of EU legislative acts in national legislation were also examined, and the current state and prospects for policy-making in the area of environmental protection were assessed.

LITERATURE REVIEW

Many research studies examining the European Community's environmental law focus on public policies leading to the acceptance (or non-acceptance) of the EU policy or its practical implementation (or non-implementation). These studies highlight a significant gap in the existing research (Börzel & Buzogány, 2019). The existing studies focus on issues such as the adaptation of environmental legislation within the EU (Rehbinder & Stewart, 2017), the role of environmental principles in the EU's environmental policy (Macrory & Thornton, 2017), the environmental responsibility of the EU Member States and candidate countries (Palevic et al., 2019), the role of criminal law in ensuring environmental protection (Karpuntsov & Veresha, 2022; Kazić, 2018; Veresha, 2016), qualification and jurisdiction applicable to environmental crimes (Vinogradova, 2017), compliance with the EU's environmental legislation (Bondarouk & Mastenbroek, 2017; Hedemann-Robinson, 2015),

the role of criminal law instruments (Alua et al., 2023), the implementation of the European Green Deal in the Eastern Partnership countries (Tsebenko et al., 2023), compliance with the EU's environmental law (Börzel & Buzogány, 2019), and the theoretical and methodological underpinnings of environmental policy research (Leipold et al., 2019). Environmental populism has attracted significant research interest in recent years. In politics, the environmental theme is usually exploited for commercial interests, and environmental populism is unlikely to garner support for political forces (Buzogány & Mohamad-Klotzbach, 2022; Gorbachev, 2021). At the same time, the EU's environmental policy has never been analyzed holistically from a comparative or a foreign policy perspective, in view of the existing environmental initiatives.

The objectives of the EU environmental policy are to preserve, protect, and improve the quality of the environment; protect human health; ensure reasonable and rational use of natural resources; and promote action at the international level to address regional or global environmental issues and, in particular, combat climate change (Kalimo et al., 2012). Given that these objectives are broadly defined, it is almost impossible to clearly define the boundaries of the EU's environmental policy. The EU needs enough flexibility to adapt its ecological policy to new developments and emerging environmental issues and, as a rule, to ensure that this provision is interpreted without restrictions (Vogler, 2011). Furthermore, it can be said that this provision allows for measures that directly or indirectly lead to environmental improvements, such as conservation and restoration measures, as well as repressive, precautionary, preventive, and highly procedural conservation methods (Davies, 2017).

The EU's environmental law addresses issues that are pertinent to the implementation of its policy and environmental regulations (Kelemen, 2010). The objectives of the European Community's policy in the area of environmental protection are enshrined in the Treaty establishing the European Community, and the following groups of issues regulated at the EU level can be distinguished:

- the state of the environment;
- public health;
- natural resources;
- international environmental issues on a regional and global scale (Vogler & Stephan, 2007).

This classification was introduced after the adoption of the Single European Act. The areas addressed by legal regulations were determined by the action programs initiated by the European Communities, as well as the introduced directives, regulations, and other documents. The sources of European environmental law are an external manifestation of the legal norms that are observed in the EU and regulate public relations in environmental protection (Krämer, 2012).

In addition, the sources of European environmental law include primary law, secondary law, legal precedents, international treaties, and the so-called tertiary or supplementary law (Jans & Vedder, 2012). All sources of European law belong to a hierarchical system, where primary law has the highest legal authority (Okereke & Ehresman, 2015).

The current environmental crisis has been brought on by gradual changes in climate and the Earth's atmosphere, air pollution and acid precipitation, desertification, destruction of the ozone layer, radioactive contamination of certain territories, pollution of oceans with heavy metals, complex organic compounds, oil products, and radioactive substances, increasing carbon dioxide levels in water bodies, decrease in biological diversity, deterioration of the living environment, and depletion of natural resources (Hildebrand, 2014). These phenomena pose a high risk for humanity because they can lead to irreversible environmental changes and, as a result, make the Earth uninhabitable (Lee, 2014).

The international community is aware of the need for joint action and collaborative activities in the area of environmental security in the face of resource depletion and the growing demand for natural resources (Jordan & Adelle, 2012). Integrated measures that introduce various programs and search for solutions to improve environmental security at the global level play an important role in this context (Marín Durán & Morgera, 2012).

International cooperation is the most important mechanism that reflects the global nature of the existing environmental challenges and plays an indispensable role in preventing environmental degradation. This approach emphasizes the need to involve the largest possible number of countries in international legal cooperation to increase the effectiveness of the international community's efforts in combating environmental challenges.

MATERIALS AND METHODS

In the present study, seven environmental action programs implemented by the European Community were the main sources of information about the EU's environmental law. These programs have played a very important role in the process of formulating the EU's environmental law. The following documents were also examined in the study: the Single European Act (SEA) of 1986, the Maastricht Treaty on the European Union of 1992 (TEU), the Treaty of Amsterdam of 1997, and the Treaty of Lisbon of 2007, which became fundamental in the field of environmental standards.

The EU's environmental policy and laws were analyzed to examine the interdependence of the components of the environmental regulatory framework, the systematization of the European Community's ecological standards, and the mechanisms underpinning laws that establish liability for environmental damage. This approach was applied to analyze legal regulations and political initiatives relating to legal relations and challenges in the area of environmental protection. Within the framework of this paper, special emphasis was placed on political instruments and legal regulation that could be applied outside the EU.

The evolution of environmental policies in the EU countries was compared with the use of a retrospective comparison method to trace the main changes in the EU's environmental law from its establishment to the present day. In addition, to understand the legal challenges in environmental protection, a systemic and structural analysis of economic processes and phenomena was conducted, and the criteria, policy

factors, and administrative and legal regulations applicable to environmental protection in Europe were systematized. This study aimed to determine the development patterns of the European Community's environmental law, and to identify the main problems and solutions. To provide detailed answers to the formulated research questions, the authors relied on major findings in the environmental and ecological sciences and analyzed the impact of environmental restrictions on the European economy. The issues related to the development of a criminal law subsystem in the EU's environmental regulatory framework were among the unresolved problems in the research. To address this problem, the environmental protection law should be examined jointly with criminal law methods and in the context of the jurisprudence of the European Court of Justice and the courts of the EU Member States.

RESULTS

The role of supranational regulation and policy documents in the area of environmental protection within the framework of the EU's general environmental priorities

The environmental policy, programs, and strategic action plans constitute the attributes of systemic environmental management. The above also refers to the results of strategic ecological planning as one of the main functions of systemic environmental management. In the context of rapid globalization and integration at both the national and supranational levels, the international aspect of environmental policy comes to the fore, and it underpins the economic, environmental, social, and ethical activities of geopolitical actors which aim to change the existing trends or maintain the status quo in the natural environment in terms of developing international relations (Christoff & Eckersley, 2013).

Since its implementation, the EU's environmental law has responded to developments at the international level, either through parallel events unfolding at the

domestic level or through the EU's participation in negotiations and the adoption of major international conventions and multilateral agreements. However, the international and external aspects of environmental policy have been fully integrated in the EU's environmental principles only in the last two decades. While the EU's efforts to assert its international leadership are particularly pronounced in the area of climate change, the external impact of its actions is visible in other areas and various aspects of environmental policy (Van Calster & Reins, 2017).

The EU institutions, including the Council of Europe, the Council of Ministers, the European Commission, the European Parliament, the EU Court of Justice, and the European Environment Agency (EAPO), play an important role in the implementation of the EU's environmental policy and environmental security law. Their main goals and tasks in the area of environmental safety are to provide objective and reliable information, to implement measures to protect the environment, and to inform the public both within and outside the EU (Van Calster & Reins, 2017).

An analysis of the EU Member States' general environmental policies should focus on the EU's environmental regulatory framework which includes the founding treaties, as well as directives and action programs in this area. The main legal acts pertaining to environmental security and environmental protection in the EU include:

- The Treaty of Rome of 1957. Article 36 of the Treaty provided the EU Member States with the right to impose restrictions on imports, exports, and transit in commodity circulation, based on considerations of environmental safety;
- The Single European Act (SEA) of 1986 which sought to revise the provisions of the Treaty of Rome relating to environmental protection;
- The Maastricht Treaty on the EU of 1992 which secured the environmental goals of the organization by promoting regional and global environmental measures in the international arena. Three environmental declarations were annexed to the Maastricht Treaty (Industrial Emissions Directive, Directive on environmental impact assessment, and the Directive on the protection of animals);

- the Treaty of Amsterdam of 1997 which introduced the duty to integrate environmental protection into all EU sectoral policies;
- the Treaty of Lisbon of 2007 which defined the fundamental objectives of the EU's environmental policy, including the preservation, protection, and improvement of the quality of the environment; protection of human health; prudent and rational use of natural resources; solving regional and global environmental problems; and combating climate change.

The Treaty of Lisbon entered into force on December 1, 2009, and it consists of two treaties: the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). A joint decision becomes a regular legislative procedure. Article 194 of the TFEU introduces responsibility for energy which must be exercised considering the environment, the internal market, and solidarity among the Member States. The only change in the provisions relating to environmental protection involved a minor amendment in paragraph 1 of Article 191 of the TFEU. This provision states that the EU can promote measures at the international level to address regional or global environmental problems. In addition, the Treaty of Lisbon stipulates that such actions may, in particular, relate to climate change. Although the EU Charter of Fundamental Rights is only annexed to the Treaty, Article 6 of the TEU states that this document has full and binding legal force. The EU Charter introduces a high level of environmental protection and improvement which must be achieved in line with the principles of integration of environmental policies and sustainable development (Article 37 of the EU Charter).

The Treaty of Lisbon defines the EU's competence (Article 4.2 of the TFEU) and provides the EU and the Member States with general powers concerning environmental protection issues. The EU institutions must apply the principle of subsidiarity established in the Protocol on the Application of the Principles of Subsidiarity and Proportionality and embodied in the Treaty of Lisbon. National parliaments undertake to enforce the principle of subsidiarity in keeping with

the procedure laid down in this Protocol. The positive and negative aspects of the principle of subsidiarity have stirred considerable debate in the EU expert community. Some researchers regard it as a threat to the sovereignty of nation states which weakens supranational power and generally runs counter to the European integration process. Others see it as a cornerstone of the EU's legal architecture, a functional principle for exercising regulatory powers at the most appropriate level of governance that the EU provides, and a valuable method for establishing an effective, yet flexible balance of power between the EU and its Member States (Pimenova, 2019).

Since 1973, European environmental measures have been based on action programs that were initially adopted every five years, and then every decade. After a blocking period, the 7th Environment Action Program (referred to as 7EAP) was finally approved in November 2013. The program was continued until 2020, and it set the environmental priorities for European political leaders during the economic crisis. However, the Treaty of Lisbon brought some changes that could be crucial in the long run. The main provisions of the EU Environment Action Programs are listed in Table 1.

Considering the responsibility for environmental offenses in the context of criminal law, it should be noted that political documents did not focus on this issue. In particular, 7EAP failed to address environmental crime explicitly, and it did not lead to the criminalization of acts that may harm the environment. However, 7EAP maximized the benefits of the EU's environmental legislation by improving its implementation as a priority objective. Therefore, the implementation of EU environmental legislation at the level of Member States will probably receive priority in the coming years. It is worth noting that the EU's Eighth Environment Action Program up to 2030 (8EAP), adopted in March 2022, remains in force today. The 8EAP aimed to accelerate the transition to a green environment fairly and inclusively with a long-term goal until 2050, as part of the "Living well, within planetary boundaries" slogan of the 7EAP. In July 2022, the European Commission adopted

Table 1. Characteristics of the EU environment action programs

Program	Characteristics
The First Environment Action Program, 1973–1976	<ul style="list-style-type: none"> – Coordinated the environmental activities of the Community in international organizations – Council Directive 75/442/EEC on waste, Council Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water in the Member States, and Council Directive 76/160/EEC concerning the quality of bathing water were adopted within its framework
The Second European Community Action Program entitled “Continuation and implementation of a European Community policy and action program on the environment”, 1977–1980	<ul style="list-style-type: none"> – Introduced environmental research programs: Science and Technology for Environmental Protection (STEP) and the European Program on Climatology and Natural Hazards (EPOCH)
The Third European Community Action Program entitled “Continuation and implementation of a European Community policy and action program on the environment”, 1981–1986	<ul style="list-style-type: none"> – Introduced new provisions concerning four aspects of Community environmental policy (need for further integration of environmental policy into other Community sectoral policies, need to strengthen the preventive aspects of environmental policy)
The Fourth Environment Action Program, 1987–1992	<ul style="list-style-type: none"> – Focused on areas such as the development of environmental standards; broad public access to information and dissemination of environmental information; efficient and comprehensive application of the existing legislation; management of all types of environmental impact; environmental education; protection of specific natural and urban areas; and creation of new jobs
The Fifth Environment Action Program for sustainable development entitled “Towards sustainability”, 1993–2000	<ul style="list-style-type: none"> – Development of market tools, financial support mechanisms, and horizontal instruments, including statistical data, scientific research, and technological development – Emphasized the significant role of non-governmental organizations in environmental safety
The Sixth Environment Action Program entitled “Environment 2010: Our Future, Our Choice”, 2002–2012	<ul style="list-style-type: none"> – Promoting the integration of environmental interests into all Community policies and the achievement of sustainable development
The Seventh European Community Environment Action Program, 2013	<p>Implemented under the slogan “Living well, within the limits of our planet.”</p> <p>Key issues and challenges:</p> <ul style="list-style-type: none"> – A rapidly changing external environment and the increasingly interconnected nature of environmental, economic, and social issues – Increasing demand for natural resources and its consequences for the environment – EU enlargement and a more diversified range of national characteristics and circumstances – Increasing pressure on ecosystems; loss of biodiversity; and waste management – Air quality in urban districts; water quality, environmental health threats, and securing the necessary investments in the environment and climate change policies
The Eighth Environment Action Program until 2030	<ul style="list-style-type: none"> – Decreasing the EU's material and consumption footprints – Strengthening environmentally positive incentives – Phasing out environmentally harmful subsidies, in particular fossil fuel subsidies

a monitoring framework with core indicators for monitoring progress toward EU environmental and climate targets (European Commission, 2022; Lucas, 2018). By 2024, the Commission should conduct a mid-term review of the progress toward the thematic priority of the Program goals. With this document, the EU reaffirms its commitment to the vision of 7EAP by 2050.

It should be noted that the external aspect of environmental policy was reflected in Priority Goal 9 of the 7EAP: to increase the efficiency of the Union in addressing global challenges related to the environment and climate. Following the said goal, the EU expresses its commitment to sustainable development and the goals and targets adopted at the 2012 UN Conference on Sustainable Development in Rio de Janeiro. Moreover, in addition to translating these commitments into action at the local, national, and union levels, the Union will actively participate in international efforts to develop the solutions needed to ensure sustainable development on a global scale. In addition, many priority goals outlined in the 7EAP can only be achieved through a global approach, in cooperation with partner countries, and foreign countries and territories. For this reason, the EU and its Member States should demonstrate the utmost interest and make efforts to participate in relevant international, regional, and bilateral processes. The 8EAP remains broadly committed to the same goals as the previous Program. The document supports the goals of environmental and climate actions envisaged by the European Green Deal. This provides an opportunity for the EU, in general, to reaffirm its commitment to the vision of the 7EAP until 2050 (European Union – Central Asia Water, 2022).

The implementation and effectiveness of the environmental law are still the core issues. The European Commission has identified particular strategies to combine its enforcement powers with an “ex-ante approach” based primarily on preventing violations. Special attention was given to the development of legislation, including various actions and activities aimed at facilitating the dissemination of information, public consultations, and guidelines for public author-

ities on the specific application of EU environmental standards. Despite difficulties and limitations, the broad scope of the EU's environmental legislation provides a minimum common framework for the Member States. An analysis of recent developments in environmental law and policy at the European level indicates that environmental issues are increasingly incorporated into other policy areas (Aliev & Godzhaev, 2021; Scheuer, 2005).

The environmental regulatory framework in the context of EU political initiatives

The EU's climate change initiatives clearly indicate that an integrated approach towards environmental protection that addresses economic and social issues is more effective than tackling environmental problems in isolation. The inherent interdisciplinary and cross-cutting nature of climate change has become a major driving force in the EU's focus on environmental and climate-related aspects of energy, transport, and industrial policies.

The achievement of different – often competing – policy goals requires appropriate strategies to ensure coherence across various sectors and initiatives. The consistency and coherence of policies and the effective implementation of the integration principle constitute a significant and largely unresolved issue. Indeed, the Treaty of Lisbon contains numerous references to the principle of coherence as a general concept of European policy and actions implemented domestically and in external relations. Therefore, as regards the relationship between the environment and other policy sectors, coherence can support the integration principle by requiring that environmental aspects are included and considered in the development and improvement of the environmental regulatory framework. The introduction of environmental action programs and the relevant directives, as well as the implementation of various instruments in this regard are among the EU's greatest achievements in the area of environmental protection.

Balancing EU interests with the Member States' autonomy has been a central theme of environmental

law research (Davies, 2017; Delreux & Happaerts, 2016; Jankuv, 2019). While ecological integration is considered a component of the international principle of sustainable development (Marín Durán & Morgera, 2012), the EU legislation regards such integration as a precursor of sustainable development (Morgera, 2012). Ecological integration is a mechanism for the practical implementation of sustainable development (Beckenbach & Kahlenborn, 2016) and a means of contributing to the achievement of the principle of prevention (Fajardo, 2010). Environmental integration is included in the general principles of the EU law and is formulated in an explicitly binding language. Its rationale lies in the realization that progress in environmental protection is insufficient and may inhibit developments in other areas of law that ignore environmental protection requirements (Jans, 2011).

The development of the EU's environmental law is also interesting in the context of its implementation in the legal systems of the Member States. However, it is conceptualized against the UK's exit from the EU (Vandermeersch, 2017). While the Member States have priority over the method of implementation, almost five decades of EU environmental law have profoundly influenced the substantive and procedural evolution of domestic law in the UK (Wurzel et al., 2013). Critical legislation has been developed on migratory birds, air quality, water and waste management, commercial trade in chemicals, emissions trading, as well as general sectoral policies in agriculture and fishery, which are the cornerstone of supranational and domestic environmental action (Norton, 2011).

The EU's general environmental and climate law, policy, and legal framework are deeply rooted in the environmental legislation of the UK. Furthermore, the process of transposing the entire framework into national law is challenging (Rehbinder & Stewart, 2017). Thus, it is not surprising that the UK, under the previous coalition government, concluded that the balance of competencies should be revised (Macrory & Thornton, 2017). During the negotiations preceding the treaties of Maastricht, Amsterdam, and Nice, several environmental campaigns were launched towards "greening the treaties" (Klößner, 2015). These

attempts addressed the role of environmental issues once the restrictions on the free movement of goods have been agreed upon and justified (Piris, 2010). The main argument was that the EU paid insufficient attention to environmental issues if they were balanced with domestic law considerations (Torsello, 2012). The drafting of the Treaty of Lisbon was a much less open and transparent procedure relative to the conclusion of the Constitutional Treaty.

Although the Treaty of Lisbon retains the procedure of the convention, it was drafted in the traditional intergovernmental manner, while high-level national representatives negotiated in relative obscurity (Hildebrand, 2014). As earlier noted, the Treaty of Lisbon and the Constitutional Treaty primarily deal with the institutional side of the EU and European integration. Substantive issues received far less attention in the agenda (Schmitt & Schulze, 2011). The proposed amendments to the EU's substantive law focus mainly on the so-called general services. The Treaty of Lisbon elaborates on EU Article 16 on a legal basis, although it fails to change the nature of this provision in the political declaration (Jans, 2011). The above led to the Protocol on Services of General Interest which is a primarily political declaration (Lee, 2014). This may mean a rebalancing between environmental protection and the domestic market, given the growing use of market-based instruments for such protection (Rehbinder & Stewart, 2017). However, the EU legislation in its current form is quite capable of balancing environmental concerns satisfactorily with the internal market (von Homeyer, 2009).

The support for European integration plays an important role in the EU's legislative process in the area of environmental protection. However, integration processes do not involve all European countries, and studies examining the influence of these processes on policy making attract criticism from the scientific community (Hedemann-Robinson, 2015; Palevic et al., 2019). At the same time, the success of collaborative efforts undertaken by the EU countries and the experience of cooperation at the supranational level testify to the significant impact of European integration.

The Treaty establishing the European Community was implemented to address the “southern problem” after Greece, Portugal, and Spain had joined the EC in the 1980s. These countries experienced significant difficulties in complying with EU legislation, in particular, the EU’s environmental policy. In this regard, it has been suggested that these problems stem from the shortcomings that divide the Mediterranean countries with regard to their administrative and political systems, the weakness of civil society (Alqodsi, 2021), and low levels of socio-economic development (Börzel & Buzogány, 2019). The subsequent enlargements of the EU gave rise to opinions that Central and Eastern European countries share many of the common symptoms of the “Mediterranean syndrome”: inefficient administrations suffering from patronage and corruption, a legacy of authoritarianism, poorly organized public interests, and lower levels of socio-economic development (Börzel & Buzogány, 2019).

Despite the fact that the EU addressed environmental protection at the supranational level and that the *acquis communautaire* in environmental legislation was adopted into national legal systems, the EU institutions have not yet managed to achieve complete uniformity in the established regime of environmental responsibility or to overcome the difficulties associated with the effective integration of EU legislation and the realities of national legal systems.

It should be noted that the EU’s policy in the area of law enforcement does not imply the relevant elements of national legislation must be replaced. The main goal is to create a supranational mechanism that leads to effective implementation of crime prevention laws in the Member States’ legal systems (Palevic et al., 2019).

It should also be noted that no EU directive recommends specific punishments for environmental crime. This matter is left to the discretion of each Member State. However, if such a crime is committed by a legal entity, including by individuals who act on own behalf as well as on behalf of that entity, to derive material gain, liability will be borne not only by the individual who derived such gain, but also by the legal entity that perpetuated the crime. In accordance

with paragraphs 1 and 2 of Article 6 of Directive 2008/99/EU, a legal entity’s responsibility does not preclude the criminal prosecution of natural persons who were perpetrators, instigators or accomplices of the acts provided for in Article 3.4 of the Directive, in particular by imposing sanctions on a legal entity (Hedemann-Robinson, 2015).

In the EU countries, regional and local environmental safety regulations are imposed within the limits set by the central government. The distribution of responsibilities for formulating and implementing environmental policies largely depends on the extent to which political power is centralized or decentralized in general (Davies, 2017). In highly centralized countries, such as France, the national government closely monitors local activities, while in traditionally decentralized countries (such as the Netherlands), local governments are given considerable leeway to adapt national guidelines to local conditions (Morgera, 2012).

An analysis of the EU Member States’ experiences in implementing environmental regulations at the regional level indicates that special attention should be paid to the following mechanisms for the development of ecological democracy:

- organizational mechanisms that integrate initiatives, mechanisms, funds, research programs, and information for the conservation and improvement of the natural environment and landscape diversity;
- access to environmental information and public participation in the decision-making on environmental issues;
- administrative mechanisms that integrate the functional and long-term concept of regional planning. This mechanism is not just a set of planning rules, but it defines human rights in the context of regional development and accounts for local limitations and opportunities.

A comparison of the European and the U.S. governments’ powers in the process of developing an environmental regulatory framework should consider the available legislative instruments (Duit, 2014). The first legal instrument for environmental policy is the action program which defines broad policy objectives.

Regulations and directives have been applied to implement the environmental policy. A regulation is a more legally binding instrument than a directive, as it is obligatory in its totality and directly applicable in all Member States (Lee, 2014). On the other hand, a directive is only binding with regard to the expected result, and the choice of methods is left to each Member State (Delreux, 2011). Moreover, a directive is binding on the Member States, not individuals.

Directives have been the essential method of implementing environmental laws for several reasons, although regulations have also been used for this purpose (Nachmany et al., 2015). Directives are particularly well suited to environmental policy implementation due to their flexibility. They also have the advantage of giving Member States certain leeway in implementation, which can be critical to achieving compliance with the directives.

The growing number of directives and the resulting burden on the European Community's institutions led to relatively weak monitoring of enforcement, which resulted in further changes in the implementation of Community directives in the Member States (Schmitt & Schulze, 2011). Thus, the federal power to regulate the environment is weakened by the need to transpose measures into national legislation.

Another difference in the legislative competence of the compared systems that unlike in the U.S., the EU's environmental law generally has no direct bearing on individuals. As noted earlier, the directive is the EU's main environmental policy instrument. Article 189(3) of the EC Treaty stipulates that the directive is only binding on the Member States which are obliged to transpose that directive into national law. Meanwhile, the doctrine of direct effect introduced substantial changes by bringing the EU's environmental legislation closer to the U.S. regulatory framework (Holder & Lee, 2007). The doctrine of direct effect, developed by the European Court of Justice, states that if a directive is unconditional and sufficiently precise, and if the time limit for its implementation by a Member State has expired, an individual can directly rely on such directive in a claim against a public authority in a Member

State court (Kulovesi et al., 2011). In addition, in the *Francovich v. Italy* decision, the European Court of Justice ruled that under certain circumstances, the EU Member States may be liable to pay compensation to individuals who suffered a loss as a result of a Member State's failure to comply with an EU directive (Craig & de Búrca, 2011). These developments greatly expand the scope of directives that meet the necessary criteria, which further strengthens central institutions.

In contrast, the U.S. government has a broader range of legislative strategies by which it can regulate the environment in all 50 states (Jinnah & Morgera, 2013). These strategies can be divided into four categories: federal standards with federal implementation and enforcement; federal standards with state implementation and execution; federal administration of federal lands and resources; and federal requirements or incentives for governments to adopt and enforce environmental protection measures (Capra & Mattei, 2015).

A comparison of the structure of European and U.S. environmental regimes reveals numerous similarities. However, there are at least as many significant differences that contribute to the problems of ecological federalism in each system (Hildebrand, 2014).

The similarities between the compared systems are apparent. The central institutions of the EU and the U.S. enforce environmental laws that differ significantly across regulated areas, making any attempt to establish a rigid central policy undesirable and impossible (Howorth, 2014). Both systems include a central government and robust regional structures resistant to central environmental regulation. These actors have the same environmental, economic, and political advantages and disadvantages of central regulatory bodies in policy development and the adoption of focal legislation (Sands, 2017). However, the strengths and weaknesses of these factors vary widely in each system. Furthermore, the implementation of central policy in both systems should, to a varied degree, depend on the performance of law enforcement agencies in the state (Puder, 2011).

It should be noted that a number of EU political initiatives that create the basis for legal regulation

have undeservedly remained outside the academic discussion in Azerbaijan. The EU strategy on adaptation to climate change is one of such initiatives (European Commission, 2023a). This strategy was developed to help the EU countries adapt to the impacts of climate change. This document could be useful for studying and implementing the best foreign practices if Azerbaijan had an interest in developing its own climate change adaptation strategy. Although Azerbaijan can study European environmental policies to create its own policies for nature conservation and sustainable use of resources, work in this direction is very limited and requires significant expert support. Currently, Azerbaijan does not have strategic documents relating to environmental issues and combating climate change. A strategic approach to environmental policy-making in Azerbaijan is needed because it would integrate environmental protection into a broader national strategy to achieve sustainable development and ensure the long-term well-being of the country.

The issue of modernizing environmental legislation and adapting to modern challenges is of particular relevance for Azerbaijan. Since the 1870s, the expansion of oil exploration in Baku and the surrounding areas led to industrial pollution, which intensified in some areas in subsequent periods. Excessive fertilizer and pesticide use in cotton fields and the lack of proper irrigation also significantly contribute to environmental pollution (Bayramli, 2020). At the same time, environmental protection is not a political priority on the domestic agenda, which has been indirectly confirmed by national research (Umudov, 2021), direct analyses of the regulatory framework, and reviews of policy initiatives. The last international assessment of the prospects for environmental policy and its implementation in Azerbaijan was carried out in 2011 during the 2nd UNECE Environmental Performance Review. The UNECE report clearly stated that Azerbaijan should update its environmental policy. In particular, the report noted that economic goals were prioritized over environmental objectives, which is typical of most former Soviet bloc countries in the region. The report recognized that the country faced

a major challenge in mainstreaming environmental considerations into sectoral policies. The main challenge would be to mitigate the negative environmental impacts of economic sectors that significantly influence the environment, including the oil and gas industry (United Nations Economic Commission for Europe, 2011). Since then, several environmental protection initiatives have been introduced at the state level, in particular the State Program on the Use of Alternative and Renewable Energy Sources in the Republic of Azerbaijan, and the Action Program for Radon Risk Study and Reduction in the Republic of Azerbaijan in 2014–2018. In 2012, the “Azerbaijan 2020: A Look into the Future Development Concept” was adopted as a multisectoral policy document addressing political priorities in the field of environmental protection (Asadova, 2018). At the same time, the adoption of the document and the implementation of its goals were not accompanied by significant reforms in environmental legislation. At present, there are no strategic documents or programs defining long- or medium-term environmental goals.

While the EU is generally considered to have one of the most stringent and ambitious environmental policies in the world, there are a number of challenges to its implementation and effectiveness (Börzel & Buzogány, 2019). Insufficient funding is one of the key issues. This is not a purely legal factor, but it always undermined the achievement of political goals. Ultimately, insufficient funding for the implementation of environmental policies can lead to limited success in achieving the goals (Kettner & Kletzan-Slamanig, 2020). The failure to observe environmental laws is also a noteworthy problem. Not all Member States strictly enforce laws related to the protection of nature and biodiversity. In some cases, this is due to the lobbying influence of certain sectors of the economy (Bergkamp, 2021).

Inconsistent internal rules (policies) and insufficient coordination between the states (Morgera, 2012) also decrease the effectiveness of European environmental policy. In some cases, EU policies may come into conflict with each other, which hinders

the implementation of environmental regulations. For example, environmental protection policies may conflict with industrial development policies (Baker, 2012). Nature “does not recognize borders”, therefore nature protection requires cooperation between states. However, effective coordination is not always possible, which obstructs the implementation of environmental protection measures. According to some researchers, climate justice issues are not duly addressed: the EU's environmental policy does not always take into account the interests of the most vulnerable groups who are affected by climate change and environmental problems (Pasetto et al., 2019). The lack of public support is also a considerable problem. Nature conservation requires broad public support which is often lacking, which could compromise the effectiveness of the environmental policy (Rousseau & Deschacht, 2020). In conclusion, the EU's environmental policy does not always readily adapt to rapidly changing conditions. The existing approaches and strategies should be modified to address climate change, the spread of invasive species, and other threats (Morgera, 2012). However, despite these challenges, the EU's environmental policy remains one of the most ambitious in the world and continues to attract attention and support from the international community.

CONCLUSIONS

Summing up, despite a threefold increase in the number of the EU Member States over the past two decades, the gap in the implementation of the EU's environmental policy has decreased. The practice of applying environmental legislation shows that there is no serious conflict between deepening and expanding the implementation of environmental regulations in the EU countries, at least when it comes to compliance with common European standards. In addition, this positive effect is due to the fact that compliance primarily depends on administrative capacity, and not on political will. The EU's environmental law has become a testing ground for the principles and innovative methods

of regulation. Although the EU continues to apply internal and external legislative measures to support and improve the implementation of international environmental law, these complex strategies have not yet yielded positive results.

The environmental protection and ecological safety system (organizational structure, forms, methods, tools, and mechanisms) should be reformed consistently in observance of the administrative-territorial structure, interbudgetary relations, and the legal framework for the implementation of the basic requirements of EU environmental law into the relevant legislation of individual countries. Environmental requirements are included in the program documents of all European and national political parties. The EU's environmental policy and regulations can serve as a reliable example for Azerbaijan, where the environmental agenda is still neglected. In particular, this applies to both strategic planning and regulatory and law enforcement practices. The strategic approach in planning long-term environmental measures implemented by the EU can be used by countries in transition (in particular Azerbaijan) to develop their own political and legal documents in the area of environmental protection. A number of documented political initiatives (Action Programs), strategic documents (such as the EU Biodiversity Strategy) can help Azerbaijan develop its own policy and legislative regulation in the area of environmental protection and sustainable resource use. The European Community has made the environmental dimension an integral part of its strategies and programs, and it is striving to become the most dynamic community in the world and to achieve this goal without harming the environment or preventing future generations from meeting their needs. The EU continues to improve its environmental regulatory framework. Finally, the EU has acquired significant experience in democratizing environmental safety regulations by introducing various legal instruments, forms, methods, and organizational structures to control the ecological safety of the region. At the same time, the results of the study indicate that despite considerable attention to environmental protection

at the supranational level and the implementation of the EU's environmental legislation into national legislative norms, the EU's governing bodies and institutions have not been able to fully achieve uniformity in relation to the established regime of environmental liability or to overcome the difficulties associated with the effective integration of EU legislation and the obstacles resulting from the specificity of national legal systems. Environmental legislation is a product and the main form of securing the national environmental policy. Therefore, the environmental policy should be urgently improved by adopting new laws that meet the existing challenges.

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