

ENVIRONMENTAL POLICY AND REGULATION ANALYSIS IN DEVELOPED AND DEVELOPING COUNTRIES

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Abstract. The article deals with the analysis of environmental policy and regulation at the international and national levels of developed and developing countries. The world community is concerned about environmental problems, creating possible solutions to these problems; however, this may not always be achievable, since there are political, economic and social factors that can serve as obstacles to the effective implementation of environmental policy and regulation. Such factors include: international conflicts and wars, instability in the economy, poverty and corruption. The analysis showed that some developing countries do not have adequate national institutions, mechanisms and procedures and, consequently, do not have adequate policies and laws to implement and enforce environmental standards. Thus, specific effective measures are needed to ensure the operation of international treaties in national legal systems. It is important to create appropriate bodies and legislation, the use of fees for harming the environment, as well as work on changing people's environmental behavior.

Keywords: Environmental policy, regulation, environment, the European Union, implementation.

JEL codes: Q58

Аңдатпа. Мақалада дамыған және дамушы елдердің халықаралық және Ұлттық деңгейлеріндегі экологиялық саясат пен құқықтық реттеуді талдау қарастырылады. Әлемдік қауымдастық осы проблемаларды шешудің мүмкін нұсқаларын жасау арқылы экологиялық проблемалар туралы алаңдайды; дегенмен, бұл әрдайым қол жетімді болмауы мүмкін, өйткені экологиялық саясат пен реттеуді тиімді жүзеге асыруға кедергі болатын саяси, экономикалық және әлеуметтік факторлар бар. Мұндай факторларға мыналар жатады: халықаралық қақтығыстар мен соғыстар, экономикадағы тұрақсыздық, кедейлік және сыбайлас жемқорлық. Талдау көрсеткендей, кейбір дамушы елдерде тиісті ұлттық институттар, механизмдер мен рәсімдер жоқ, сондықтан экологиялық нормаларды жүзеге асыру және сақтау үшін тиісті саясат пен заңдар жоқ. Осылайша, ұлттық құқықтық жүйелердегі халықаралық шарттардың жұмысын қамтамасыз ету үшін нақты шаралар қажет. Тиісті органдар мен заңнаманы құру, қоршаған ортаға зиян келтіретін төлемдерді қолдану, сондай-ақ адамдардың экологиялық мінез-құлқын өзгерту үшін жұмыс жасау маңызды.

Түйін сөздер: Экологиялық саясат, реттеу, қоршаған орта, Еуропалық Одақ, іске асыру

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Аннотация. В статье рассматривается анализ экологической политики и правового регулирования на международном и национальном уровнях развитых и развивающихся стран. Мировое сообщество беспокоится об экологических проблемах, создавая возможные варианты решения этих проблем; однако это может быть не всегда достижимо, поскольку существуют политические, экономические и социальные факторы, которые могут служить препятствиями для эффективного осуществления экологической политики и регулирования. К таким факторам относятся: международные конфликты и войны, нестабильность в экономике, бедность и коррупция. Как показал анализ, некоторые развивающиеся страны не располагают надлежащими национальными институтами, механизмами и процедурами и, следовательно, не имеют адекватной политики и законов для осуществления и обеспечения соблюдения экологических норм. Тем самым, необходимы конкретные действенные меры для обеспечения работы международных договоров в национальных правовых системах. Важно создавать соответствующие органы и законодательства, применение плат за нанесения вреда окружающей среде, а также работать над изменением экологического поведения людей.

Ключевые слова: Экологическая политика, регулирование, окружающая среда, Европейский Союз, реализация

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Introduction

Since the middle of the last century, the rapid developments of industry, economic activities and the accompanying irrational use of natural resources have led

to the emergence of global environmental issues. These environmental problems, such as ozone layer depletion, global warming and air and water pollution resulting from human activities are causing

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global threats to the quality of life on Earth (Harley, 1992). In this regard, the protection and well-being of the environment have become some of the most important issues in the political arena, not only at the national level but also in the international arena as well. Therefore, international policy to protect the environment has become a pivotal instrument which covers all aspects of society and is essential for all countries, regardless of their level of development. In the following, the purpose and scope of environmental policy and regulation at the international and national levels will be discussed, along with an explanation of how political, economic and social factors could be obstacles to the effective implementation of environmental policy and regulation at the international and national levels. The effectiveness of environmental policy and regulation in the European Union (EU) with in developing countries will then be assessed.

Methods

For the study this topic and solve the assigned tasks, the methods of theoretical research and comparative analysis were used.

The purpose and scope of environmental policy and regulation at the international and at national levels

Protection of the environment and human well-being has become a vital issue in many countries around the world. Through environmental policy and regulation, states can establish their responsibility in solving these problems. The concept of environmental policy simply defined, as Roberts (2011, p. 2) states, is «a set of principles and intentions used to guide decision making about human management of environmental capital and environmental services». In this context, principles include the «polluter pays principle», the principle of «sustainable development» and «the precautionary principle» (Thornton and Beckwith, 2004, p. 6). For example, the polluter pays principle has been a recognised policy in the European Union since its codification by the [then-Community] in 1973. According to this principle, polluters must pay the cost for their polluting activities. This principle also acts in the Directive on Environmental Liability

(2004) (EU, 2006). The principle of sustainable development has been one of the main principles, because it considers environmental law and policy at every level. As defined by the Brundtland Commission report (1987), sustainable development is «development that meets the needs of the present without compromising the ability of future generations to meet their own needs» (Thornton and Beckwith, 2004, p. 12). The UK was one of the first to apply this, with its Strategy for Sustainable Development in 1994. In comparison, Kazakhstan adopted the Concept of Transition to Sustainable Development in 2006 (DPRK, 2006). Thus, it can be seen that the principles and intentions of environmental policy are practically documented at both the international and national levels (Roberts and Robinson, 1998, p. 109).

Hence, a broad scope of documents are central sources of environmental policy. For example, at the international level, policy principles come from the Rio Declaration on Environment and Development (1992), which outlines recommendations for a number of political principles pivotal to achieving sustainable development with public access to government information on the environment (McEldowney and McEldowney, 1996, p. 41). «At the UK level, important sources of environmental policy include Command Papers (e.g. the Energy White Paper), and reports by the Royal Commission on Environmental Pollution» (Thornton and Beckwith, 2004, p. 15). Thus, these environmental documents, generally divided at the international level, include declarations, conventions, protocols, agreements, treaties and directives; the national level includes statutory instruments and legislation, such as Environmental Protection Act (1990) in the UK, which regulates industrial emissions (McGillivray, 2006).

Historically, many environmental issues were national in scope and therefore did not require international attention (Esty and Mendelsohn, 1998). For example, the first significant national law on environmental protection in the USA was the National Environmental Policy Act (NEPA), which was passed in 1969. The purpose of this Act was «to declare a national policy which will encourage productive and enjoyable harmony between man and his environment;

to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality» (NEPA, 1969). Thus, NEPA requires that federal decisions about developments must be made after consideration of possible environmental impacts, as defined in an environmental impact statement (Chiras, 2010, p. 608). It is evident that NEPA is one of the first initiatives in American environmental policy to protect the environment, in collaboration with people's health and well-being.

However, there are some global environmental issues that are impossible to solve independently or nationally. Global warming, depletion of the ozone layer, deforestation and other issues have required international efforts to solve. The United Nations (UN) is one of the major international organizations which facilitates the support and funding of international and regional environmental projects (Soroos, 2005, p. 27). For example, in 1992, under the auspices of the UN, the Earth Summit in Rio de Janeiro was held, where 154 countries signed the Convention on Climate Change that set out to reduce global greenhouse gas emissions. According to this agreement, countries needed to hold greenhouse gas emissions at 1999 levels by the year 2000. Nevertheless, this agreement did not function properly, because it did not entail any specific conditions for actions (Chiras, 2010, p. 617). In 1997, the global community met again in Kyoto, Japan to elaborate a more rigorous agreement to reduce greenhouse gas emissions. The main idea of this agreement was to reduce carbon dioxide and other greenhouse gas emissions to 5.2% below 1990 levels between 2008 and 2012 (Chiras, 2010, p. 617). In 2015, a new climate agreement was adopted in Paris to address climate change issues (UNCC, 2016).

Moreover, in 1981, the United Nations Environment Programme (UNEP) adopted the Montevideo Programme, which includes three directives; one is protection of the stratospheric ozone layer. As a result of this, in 1985 the Vienna Convention for the Protection of the Ozone Layer and in 1987

the Montreal Protocol on Substances that Deplete the Ozone Layer were adopted to control levels of chlorofluorocarbons and other ozone-depleting substances in the atmosphere. Thus, the emission of harmful substances causing ozone depletion were taken into account at the international level as a global threat (Soroos, 2005, p. 30).

It should also be noted that the emissions of some countries could cause environmental impacts not only for them, but for other, neighbouring countries as well. Therefore, international co-operation is a necessity. For example, sulfur pollution, emitted from coal burning in China, significantly affects Japan, or water pollution in the Danube affects seven countries before the river reaches the Black Sea (Esty and Mendelsohn, 1998, p. 226). Another example is the Ishim River. China population growth, the construction of various hydraulic structures, as well as water intake to the oil-bearing areas of western China will lead to an environmental catastrophe in the near future for Kazakhstan and Russia (Boyarkina, 2017). From this, it can be seen that the environmental impacts of one country can affect other, neighbouring countries, thereby causing regional environmental problems which must be solved by international co-operation.

Thus, the purpose and scale of environmental policy and regulation at both the national and international levels is «to change human behavior – to make people act in ways which do not generate environmental problems, or which generate problems of lesser significance than was previously the case» (Roberts, 2011). It is clear that the solution to today's environmental problems is a key to the success, prosperity and well-being of future generations. Thereby, the world community worries about environmental problems, creating possible options to deal with these issues; however, this may not be consistently achievable, as there are some political, economic and social factors which could serve as obstacles to the effective implementation of environmental policy and regulation.

How political, economic and social factors can prevent the effective implementation of environmental policy

and regulation at the international and national levels

Implementing effective policy and regulation so as to solve environmental issues is not simple, either at the national or international level. Certain specific actions to make international treaties operative in national legal systems are needed. Therefore, «implementation by states creates the link between the national legal system and the international obligations» (*Faure and Lefevere, 2005, p. 163*). However, it is not always possible to effectively apply environmental policy, as there are a number of political, economic and social obstacles. Moreover, all countries are sovereign and, therefore, can choose to join or not join international agreements. For example, the Kyoto Protocol is a global project in which many countries concerned about climate change participate. However, the USA refused to ratify it because it would be unprofitable for the US economy, with millions of jobs projected to have been lost as a consequence (*BBC News, 2001*). This example shows that in political and economic terms, the United States tends to be more responsive to domestic business and industry than to international environmental regulation (Vig, 2005, p. 14).

There is other side of the coin, however – even when countries have signed an environmental agreement, they do not have equal capabilities to implement them. As a consequence, the success of international environmental norms will depend on the effectiveness of domestic implementation (*Downie, 2005, p. 79*). Some developing countries do not have appropriate domestic institutions, mechanisms and procedures, and therefore lack adequate policies and laws to implement and enforce environmental rules (*UNEP, 2004*). These take much funding and time. For example, Kenya, Mozambique and Burkina Faso started to establish measures to protect environment in 2000 (*UNEP, 2002*).

Instability in an economy, poverty and corruption are some of the main issues preventing the effective implementation of environmental policy and regulation. Many developing states, such as a number of African and Asian countries, have problems with poverty (*WCED, 1987*). The majority of their poor living in rural areas and, therefore, meeting most of their needs from soil and

forest resources (*World Bank, 1990*). In Africa, more than 80 per cent of poor people live in rural areas. As Pearce and Warford (*quoted in Holden et. al., 1998*) maintain, 'people live in and derive most of their income from ecologically fragile environments'. Thus, a sample of African countries shows that poverty is the main problem preventing the effective implementation of environmental policy and regulation.

Corruption is another factor which could also be an obstacle to the effective implementation of environmental policy and regulation. This factor is mainly an issue in developing countries. For example, the World Bank report on corruption and forestry highlights the negative effect that corruption has on forest management (*Callister, cited in Pellegrini and Gerlagh 2006, p. 336*). In Indonesia, as the Environmental Investigation Agency and Telapak report (2003), 'Forests are being destroyed because Indonesia is one of the most corrupt countries in the world and many in the political, business and military elite are unwilling to surrender the wealth and power that Indonesia's natural resources have given them'. In Russia, because of corruption, vast forests are being plundered and their produce sold to China for its timber industry. This deforestation, as Strangio (2011) highlights, increases the threat of the disappearance of populations of Siberian tigers. Thus, it can be seen that corruption is a factor which impedes the realisation of environmental policy.

International conflicts and wars are also obstacles to the effective implementation of environmental policy and agreements. In most cases, conflicts have happened due to the sharing of natural resources or the sharing of the revenue thereof. For example, in late 2011, conflict arose between northern and southern Sudan because they could not share oil revenues. Another example, due to the 2003 War in Iraq, the Iraqi government made the water supply and other basic services as its highest priority (*Bruch et. al., 2012*). Therefore, after conflicts, some time is required, as well as the capacity to recover economically and to implement environmental policy and regulation. Nevertheless, some countries, such as Afghanistan and Iraq, after having been in conflict for many years, apply

multilateral environmental agreements as a chance for reincorporation into the international community (*Bruch et. al., 2012*).

However, it is important to understand, on the one hand, the obstacles and problems to the provision of effective environmental policy and regulation and on the other, to understand what procedures can be adopted to help ensure effective implementation.

For the effective implementation of environmental policy and regulation, it is important to change people's behaviour. They could be forced by law and rules (e.g., enforcement incentives such as taxation, or through persuasion) and social encouragement (*Roberts, 2011, p. 163*). At the international level, enforcement indicates «the methods that are available to force states not only to implement but also to comply with treaty obligations» (*Faure and Lefevere, 2005, p. 164*). Noncompliance with treaties can be regulated by dispute settlement procedures (DSP) that come under international law, such as the Vienna Convention for the Protection of the Ozone Layer, the United Nations Framework Convention on Climate Change and the Kyoto Protocol. In the case of deeper conflicts, third parties can be involved, such as various international institutions or the International Court of Justice, which in 1993 created a special chamber for environmental issues. However, in practice, these types of procedure are less effective and suitable in environmental treaties and agreements (*Faure and Lefevere, 2005, p. 175*).

Therefore, the ineffectiveness of this procedure has led to the promotion of a new system – noncompliance procedures which are aimed at finding ways to facilitate compliance, improved transparency and to prevent violation. For example, more recent environmental treaties, such as the Montreal Protocol, utilise the new noncompliance procedures. In this case, states that are unable to comply with their obligations can report this incapacity to the Secretariat and the Implementation Committee, which was established in 1992 in Copenhagen. Therefore, this Committee discusses the general quality and reliability of the data included in reports and then takes decisions (*Faure and Lefevere 2005, p. 177*). It can be seen that this kind of procedures has a facilitative character, whereas problems with

noncompliance could be solved by negotiation.

At the national level, most countries can establish a council or governing body and create legislation to regulate the behavior of individuals in pursuing effective environmental policy (*Roberts, 2011, p. 163*). For example, in 1990 the UK enacted the Environmental Protection Act, which includes the norms for the liability of environmental damages, such as commercial and industrial emissions and waste (*McGillivray, 2006, 69*). In 1996, the Environmental Agency was established, whose «aims are to protect and improve the environment, and to promote sustainable development» (*EA, 1996*).

Countries also use a tax system and charge as a part of procedures for the effective implementation of environmental policy to those who create impacts on the environment. For example, in the UK a number of tax measures have been implemented, such as the 'new national environmental taxes on landfill, industrial energy use (the climate change levy) and the extraction of aggregates (quarry products)' (*Fullerton et al., 2008*). The latter is a resource tax, which was introduced in 2002, while «the aims of the levy were to internalise the externalities incurred by aggregate production; to encourage material substitution and recycling; and to promote the more efficient use of primary aggregate» (*Roberts, 2011, p. 214*). Thereby, taxation as an economic instrument is an ongoing incentive allowing the reduction of emissions and environmental damages.

Persuasion is one of the elements of effective implementation, and can enable a particular environmental policy to change individuals or companies' behavior without the need for regulation or taxes. It is cheap and does not require enforcement (*Roberts, 2011, p. 167*). For example, with regard to the recycling of domestic wastes, with just a little bit of persuasion, people have changed their behaviour. Advertisement is a tool to persuade people where arguments to stop doing something could be provided in newspapers, magazines or on billboards. For example, to not drink when driving a car. Thus, it can be argued that in most countries, persuasion could serve as a tool for the effective implementation environmental policy.

Comparison and evaluation of the effectiveness of environmental policy and regulation in the EU with the effectiveness in developing countries

Where people exist, there will always be issues of environmental protection arising. Water, air and land pollution are the result of human activities. It does not matter whether a society is developed or developing. Another question is how any given society is responsible for the solution to environmental problems. Evaluation of the effectiveness of environmental policy and regulation shows how countries achieved their goals in protection and solving environmental issues. To understand this clearly, the effectiveness of environmental policy and regulation in the developed

countries of the EU will be compared and evaluated against that in developing.

The EU has been implementing forceful environmental policies over the last four decades. This legislation has required regular monitoring, reporting and assessment of environmental issues. The main issues on which the EU focuses, according to GEO (2010), are climate change, air quality, freshwater, chemical and waste, and biodiversity. In 2008, the EU launched a climate change package programme, which aimed to reduce emissions by 20%, to improve energy efficiency by 20%, and to increase the use of renewable energy by 20% by 2020 (EC, 2008). Table 1 illustrates the EU's agreed goals on climate change and air pollution, which had achieved by 2020.

Table 1 – the EU's agreed goals and themes related to atmospheric issues (GEO-5, 2012).

Major themes from internationally agreed goals		Numerical target	Coverage
Climate change			
EU 20-20-20 targets (EEA 2009)	Reduce greenhouse gas emissions from EU countries by 2020	20% reduction in emissions from 1990 levels; 20% energy consumption to come from renewable sources; 20% cut in primary energy use compared to projected levels	EU Member States
Air pollution			
EU directives for air quality, vehicles, stationary sources and national emissions (EC 2008)	Improve human health and environmental quality up to 2020	Guidelines set for PM2.5, PM10, SO2, NO2, Pb, CO and O3, e.g. PM2.5 – 25 µg per m3 annual mean, PM10 – 40 µg per m3 annual mean; critical loads and levels also set for ecosystems; national emissions ceilings set for each EU country for SO2, NOX, VOC and NH3	EU Member States

By contrast, China, being a developing country, created Agenda 21 soon after the United Nations Conference on the Environment and Development in 1992, and «adopted a series of policies and measures taking into account its specific national issues, making positive contribution to the mitigation of climate change» (NCCP, 2007). However, Hays (2008) argues that «China is the largest producer of greenhouse gases and the largest emitter of carbon dioxide». Germany's IWR Institute reports that China's CO2 emissions in 2008 were 6.8 million tons, which was twice as much as it was in 1990.

Nowadays, Chinese industry emits more carbon per capita than France and Spain (Foster, 2011). By comparison, according to the United Nations database (2008), France emitted 0.376 million tons of CO2, whereas Spain emitted 0.329 million tons. Thus, it can be seen that both EU countries and China have implemented environmental policy to reduce CO2; however, relative success has only been seen in EU countries.

At the same time, a new report from the UN Environment Program dated September 7, 2021 shows that over the past 5 years, there has been an increase in the number of

countries implementing policies for all key sectors that pollute the air. At the same time, a new UN Environment Program report dated September 7, 2021 shows that over the past 5 years, there has been an increase in the number of countries implementing policies for all key air polluting industries. As of 2020, 124 out of 195 countries have implemented national air quality standards. 18 countries added new vehicle emissions standards equivalent to Euro 4 or higher, bringing the total to 71 countries. For example, Morocco allows the import of vehicles that are no more than 5 years old and comply with the Euro4 European vehicle emissions standard. In addition, 21 countries have implemented cleaner production policies, bringing the total number of countries to 108. The total number of countries regulating solid waste incineration has reached 38. Overall, out of 124 countries with air quality standards, only 57 constantly monitor air quality and 104 countries don't have monitoring infrastructure.

Waste management policy is another important tool in the protection of the environment for European societies and developing countries. For example, in India the government has launched rules which regulate waste reduction, such as the Recycled Plastics Manufacture and Usage Rules in 1999, and the Recycled Plastics Manufacture and Usage (Amendment) Rules in 2003. However, these laws do not work properly, because municipalities do not allocate enough storage of collected wastes. Only 17 per cent of storage capacity was provided by municipalities. Also, according to the rules, there were 56 landfills planned; nevertheless, only 6 were established (*Report: CAG of India, 2007*).

In comparison to India, waste reduction has been one of the major aims of EU environmental policy, and this issue is regulated by the Waste Framework Directive (2008) and Hazardous Waste Regulations (2005), which were revised in 2009. European countries have more rigorous legislation, and municipalities are responsible for providing the conditions for waste management. On the other hand, the

waste reduction goal has still not been achieved. The amount of waste has been growing, «including construction and demolition waste, packaging, hazardous and municipal waste, and sewage sludge» (*GEO-5, 2012*). In addition, waste recycling should be improved. At present, «EU data indicate that only 38 per cent of total waste is reused or recycled» (*GEO-5, 2012*). Hence, it can be seen that both European society and developing countries have set out to reduce waste; nevertheless, it is a fact that waste management is more developed in the EU than in other, developing countries.

Conclusion

In conclusion, it is evident that environmental policy and regulation at both the international and national levels are important tools in preventing and solving environmental problems. There are global environmental issues, such as ozone layer depletion, global warming and air and water pollution that result from human activities, and as a consequence of this, represent threats to the environment and humankind. Hence, the global community since the last century has started to formulate international policy to solve environmental issues. Thus, sustainability has become the basis and main approach in the preservation and development of national wealth. Also, it should be noted that international organisations such as the United Nations have been playing a major international role in supporting and funding, not only international, but also regional environmental projects. As was discussed, the Rio Declaration on the Environment and Development, the Kyoto Protocol, Montreal and Paris Agreement and were elaborated to prevent global issues. Therefore, countries have implemented international agreements as well, as their national regulations. Although there are some obstacles to the implementation of environmental policy and regulations, the world community considers the protection and preservation of the environment essential for a sustainable future.

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ДАМЫҒАН ЖӘНЕ ДАМУШЫ ЕЛДЕРДЕГІ ЭКОЛОГИЯЛЫҚ САЯСАТ ПЕН РЕТТЕУДІ ТАЛДАУ

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АНАЛИЗ ЭКОЛОГИЧЕСКОЙ ПОЛИТИКИ И РЕГУЛИРОВАНИЯ В РАЗВИТЫХ И РАЗВИВАЮЩИХСЯ СТРАНАХ

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