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International Scientific Conference “Availability of Natural Resources. Legal Issues”, Lublin, 27 September 2018

Międzynarodowa Konferencja Naukowa „Dostępność do zasobów naturalnych. Zagadnienia prawne”, Lublin, 27 września 2018 r.

The International Scientific Conference “Availability of Natural Resources. Legal Issues” held on 27 September 2018 was organised by the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin (UMCS). The Conference was attended by 23 speakers who represented a total of 10 Polish and foreign academic centres, including 10 foreign speakers from Ukraine and Slovakia.

The event was opened by Vice Dean of the Faculty of Law and Administration of UMCS, Dr hab. Beata Jeżyńska, professor of UMCS, who stressed the signifi-

cance of the issues chosen for the subject of discussion, from the perspective of both legal sciences and natural sciences, and especially from the humanitarian point of view.

The first session was chaired by Prof. Jerzy Stelmasiak (UMCS). The first speaker to take the floor was Prof. Anna Przyborowska-Klimczak (UMCS), who, in the paper entitled “Access by coastal countries to the maritime resources”, pointed to a new trend – a tendency of transferring anthropopressure to maritime resources, which has recently intensified not only in terms of mineral deposits traditionally defined, but also in terms of so-called polymetallic nodules, which are now a prospective valuable raw material that may be used on an industrial scale.

Dr hab. Beata Jeżyńska, in her paper entitled “Corporate social responsibility towards access to natural resources” focused on the aspect of transplanting the CSR concept into agricultural activity, pointing to a trend involving changes in agricultural market aimed at ensuring social welfare to present and future generations by increasing environmental awareness among agricultural producers and consumers. She also argued that legal and financial instruments supposed to put this concept into a normative form had already appeared in the Common Agricultural Policy (support in the form of agri-environmental programme).

Prof. Marian Zdyb (UMCS) in his paper “Spatial planning as an instrument to influence the protection of natural resources and real estate management”, discussed issues relating to the role of local zoning plans in resolving conflicts between the value of natural environment and its protection in relation to the right to health and its protection, and the needs of economic development. He expressed the hope that the key role in balancing these conflicting values will be played by the principle of sustainable development together with the principle of proportionality and the principle of legal certainty.

Then, the participants, via teleconference links, heard a presentation delivered by Dr Lenka Pčolinská (Pavol Jozef Šafárik University in Košice), who discussed the problem of local development in the context of marginalised groups and in the context of social economy as a tool of local development. The specificities of local development in Slovakia vary to a large extent and thus are characterised by diversified pressure on the environment. Dr Pčolinská presented a model of social business in the form of a social cooperative/enterprise, as a new legal instrument being implemented in Slovakia as a remedy for unsustainable economic and social development.

After the discussion, the second session started, moderated by Dr hab. Beata Jeżyńska. The floor was first taken by Prof. Jerzy Stelmasiak, whose paper concerned the “Diversification of the protection of natural resources in special natural areas”. He stressed that the concept of such a form of area protection as

a landscape park was guided by the following idea: the interference is allowed only to the extent that does not undermine the objectives of protection of a given area. Such areas are first and foremost intended to establish prohibitions, not orders and restrictions, and thus the constitutional principle of proportionality is implemented.

Dr hab. Anna Haładyj, professor of Catholic University of Lublin, presented a view on responsibility towards future generations for the use of natural resources, noting that this problem concerns both moral responsibility and legal liability, though in the latter case it is difficult to identify entities affected by depletion of a given resource or at least reduction in its abundance – as the entities defined as “future generations” do not have legal personality, neither individual nor collective.

These issues were also discussed by Dr hab. Monika Król (University of Łódź) who stressed that the access to resources forms an essential reason for the protection of these resources, and identified the risks to the availability of resources associated with globalisation and the feedback involving the existence and availability of resources as a condition for its further development.

This session was concluded with the presentation by Dr Yuliia Vlasenko from the Taras Shevchenko National University of Kyiv, entitled “Priorities of the state environmental policy of Ukraine at the present stage: Legal framework for implementation”. The environmental policy for providing access to resources was adopted for the period 2010–2020; it governs citizens’ rights in terms of land use, access to water and the use of ground. The speaker contrasted the political value of the policy with real-life problems in terms of access to drinking water of good quality, problems related to the current geopolitical situation, and the goal of achieving a water management model consistent with the EU solutions.

After another break, the third session started, moderated by Dr Roman Marusenko from the Taras Shevchenko National University in Kyiv, who gave the floor to Dr Paweł Gała (Silesian University in Katowice) to deliver a paper on “Protection of rights of breeders of new plant varieties in the Seed Production Act”. Dr Gała observed that protection of genetic resources was becoming an increasingly important issue in the legal system of protection of resources, starting from the dilemma whether they are renewable or non-renewable resources, through an attempt to analyse legal instruments for their protection – in particular by formulating a proposal for their protection regulated in a similar way or even identical to the protection of intellectual property rights.

Then the floor was given to Daria Piddubna from the Donetsk Law Institute of the Ministry of Internal Affairs of Ukraine who presented the problem of “Natural resources – an ecological resource to ensure the constitutional rights of citizens”. The author noticed that an issue of preserving and restoring natural resources

should take place through a series of appropriate actions. One of these is the direction of bioenergy – in Ukraine, in cooperation with the European Bank for Reconstruction and Development, it is planned to launch a bioenergy program in 2019. The speaker also pointed that the fact directly concerning natural resources and natural objects is characteristic of the territory of Ukraine, related to chemicals and treatment (e.g. a problem of availability and handling pesticides that are characterized by expired shelf life which instead of utilization can fall into the process of use since no recycling mechanism is foreseen).

Another speaker, Roman Semenets from the Taras Shevchenko National University in Kyiv, in his presentation “Legal regulation of waste management in the context of sustainable development of natural resources” stressed the relationship between the massive use of resources and the effect of a dramatic increase in the amount of waste, in the absence of sufficiently effective concepts for its reduction.

The last paper in that session – “Impact of the Common Agricultural Policy on access to natural resources. A case study” – was delivered by Dr Radosław Pastuszko (UMCS). In his contribution he emphasized the influence of legal instruments rooted in the Common Agricultural Policy on the effectiveness of natural resources protection, in particular promoting sustainable management of natural resources in the context of food production, discussing the effects of implementing solutions to support food producers at the EU level on the global land-use system and global changes in the crop structure.

The fourth session moderated by Dr hab. Monika Król, was commenced with the presentation by Dr Vladyslava Zavorodnia from the Sumy State University, concerning the implementation of the right to water in Ukraine. Dr Zavorodnia proposed the classification of water (commodity vs. natural good) and access to water (service vs. right), analysed the right to water under United Nations documents with its referents – accessibility and quality; and in the light of the case law of the European Court of Human Rights (*Dubestska and Others v. Ukraine*, N 30499/03). She also briefly identified the difficulties with access to and contamination of water in the context of the hostilities in eastern Ukraine.

Dr Roman Marusenko analysed the Ukrainian legislation (the Constitution and the Water Law Act) regarding construction restrictions in the coastal zone (prohibition of erecting structures at a distance of 25–100 m from the shoreline, depending on the type and size of the reservoir) and proved the discrepancies between applicable law and the actual state. In his paper, he addressed the problem of access to water and the right to use it, pointed out the ineffectiveness of the regulation in force, demonstrated permanent violation of the law in force and the lack of sanctions in the event of violation of regulations regarding the protection zone.

In the presentation entitled "Protection of waters in agricultural activities", Dr Małgorzata Szymańska (UMCS) noted the water-related agricultural problems (excess, scarcity, water pollution by nitrates). Dr Szymańska especially pointed to the use of fertilisers in agricultural activities, in particular the problem of determining fertilisation and fertiliser management techniques in the context of good agricultural practices.

Dr Tetiana Sharaievska from the Taras Shevchenko National University of Kyiv pointed to the need for the Ukrainian legislature to develop legal mechanisms for managing specific environmental threats (an example provided by the speaker was the war in eastern Ukraine). Dr Sharaievska considered recommendable to use the experience of developed countries, especially the European Union Member States. She also pointed to the value of international cooperation in this field.

The last (fifth) session was opened with the paper delivered by Dr Olha Sushyk from the Taras Shevchenko National University of Kyiv, addressing harmonization between EU law and Ukrainian law in terms of climate and ozone layer protection. Dr Sushyk commenced her presentation from discussing the Ukrainian policy on climate change and then presented the strategy of the Ukrainian environmental policy until 2020 and 2030. In her speech, the speaker, who moderated the last session, discussed Ukrainian legislation on renewable energy sources and referred to the provisions of the EU-Ukraine Association Agreement.

The presentation by Dr Sushyk was supplemented with the paper delivered by Maria Diachuk, a doctoral student at the Taras Shevchenko National University of Kyiv, on the use of renewable sources of energy in Ukraine. The speaker discussed the efforts taken by the Ukrainian government as part of Ukrainian membership in IRENA (International Renewable Energy Agency), she also discussed basic assumptions of the Alternative Energy Sources Act of 20 February 2003 and presented an interesting declaration of a complete transition to renewable energy made by four Ukrainian cities (Zhytomyr, Lviv, Kamyanets-Podilskyi and Chortkiv).

Dr Grzegorz Lubeńczuk (UMCS) analysed the procedure for imposing the so-called increased levy in the case of illegal mineral extraction. He demonstrated, among other things, inconsistency of the legislature in defining the term "extraction of minerals", he also criticized the solution allowing the imposition of the levy jointly and severally on participants of the construction process, and raised the problem of classifying minerals as waste.

The presentation delivered by Dr Hanna Spasowska-Czarny (UMCS) addressed the activities aimed at the protection of wisents (European bison) in Poland. Dr Spasowska-Czarny demonstrated that the Polish legislation on nature protection dates back long ago, but as recently as in the second half of the 19th century and in the early 20th century, nature protection became one of the factors

affecting cultures of countries across the world. This period saw the development of the concept of biodiversity conservation based on the principle of sustainable development, which allowed us to see the interdependence between, among other things, the condition of natural resources and economic development. Efforts to protect wisents are of various form and scale, as it was demonstrated further on in the paper.

Dr Emil Kruk (UMCS), in a paper concluding the conference, presented his views on fish welfare and legal conditions for amateur fishing in inland waters, demonstrated that fish are highly developed animals that feel pain on a par with others. Their level of welfare is measured by the level of stress that is caused by such factors as weak oxygenation, high concentration of ammonia or incorrect conditions of sorting and keeping. Dr Kruk also referred to the provisions of the Water Law Act of 2017 concerning the principle of common use of water, including amateur fishing.

One of the voices in the discussion was expressed by Dr hab. Jerzy Stelmasiak. He pointed to the continuity of regulation of the legal attitude of man towards nature and the environment, and to the gradual increase of restricting the access to the environment, he also emphasised the importance of the practice of application of law in this field. He expressed the view that results assumed on a global scale could only be achieved through cooperation with the world's largest economies. He also proposed as a subject for consideration the use of Polish experience in the adaptation of national legislation to the environmental norms of the European Union.

The conference was concluded by Dr hab. Beata Jeżyńska. She assessed the subject matter of the conference to be very topical and auspicious, as evidenced by the vigorous discussion. A large number of issues have been raised during the debate, and the emergence of a number of important problems have been demonstrated, especially in the context of taking up and doing business. In addition, she pointed to the trend of extending the regulation in view of the increasing number of environmental risks, and expressed her hope for an opportunity to meet again soon. She mentioned that the organisers intended to issue a conference publication, then she thanked the participants for their attendance and contribution and closed the conference.