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Political and Economic Prerequisites of Legislation and Legal Regulations in the Area of Natural Environment Protection

Abstract

RESEARCH OBJECTIVE: Legislative processes are important due to the fact that little attention is paid by the market as well as market models of economic development to the issues resulting from the exploitation of the natural environment. Currently, the crucial actions to protect the natural environment include setting up legal regulations that would reduce the degradation of nature caused by consumer behavior. The aim of this article is to analyze and evaluate the selected legislative solutions pertaining to the protection of the natural environment in the European Union and Poland.

THE RESEARCH PROBLEM AND METHODS: The analysis of legislation and legal regulations pertaining to the environmental protection in the context of the selected issues spans the timeframe of 2015–2020. The conducted study pertains mainly to legal acts including regulations as well as directives.

THE PROCESS OF ARGUMENTATION: The function of the state in the economy was described to explain the role of the policy adopted for the environmental protection. Further in the considerations, the analysis included selected legal regulations observed by the EU member states. Evaluation was made in terms of incentives and other solutions in the area of economic instruments and other solutions facilitating the implementation of sustainable development premises.

RESEARCH RESULTS: The sources of law of the European Union are an important constituent part of the national system of environmental protection. Domestic regulations are more and more frequently supplementary and executive

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in nature. The results of research show the selected suggestions and evaluate the legal solutions adopted within the analyzed timeframe.

CONCLUSION, INNOVATIONS, AND RECOMMENDATIONS:
Legislative solutions should yield benefits both to the manufacturers as well as the economy. Ecological awareness is equally important, setting social responsibility for the environment as a model conduct.

KEYWORDS:

directive, regulation, legislation, policy, natural environment

INTRODUCTION

Over the past few years, the load put on the natural environment by the industry has aggravated. Consequently, it is necessary to identify and evaluate the aspects of sustainable development¹ within the scope of the natural environment to ensure satisfaction of the current needs of people, without depleting the chances of the generations to come to satisfy theirs.

Till now, the economic growth has been a priority without giving regard to the load put on the natural environment due to its degradation. The presented urgent need for the environmental protection is complemented by the fact that “Man does not appreciate the value of what is indispensable to him as long as the possession thereof is obvious” (Famielec, 2015). Bogusław Fiedor, Zbigniew Dokurno and Bartosz Schuer (2015) stress the importance of answering the question: how to solve the issue of intra and inter-generational justice? In this way, the classic perception of the economy boils down to the functioning of a household, which is the Earth.

Exploitation of the natural environment by the industry poses a threat to the economic development of countries. Therefore, new challenges to the sustainable management of natural resources, which include both effective as well as economic use of raw materials and their reuse, are becoming increasingly important. Hence, in the

1 In 1987, the concept of sustainable development emerged in the report “Our common future” drafted by the UN World Commission for Environment and Development headed by Gro Harlem Brundtland.

legislative process and formulation of legal norms pertaining to the environmental protection, the principle of sustainable development, i.e. economic development with due regard given to the environmental factors, should be taken into account.

The purpose of this article is to analyze and evaluate some selected legislative solutions pertaining to the environmental protection in the EU and in Poland. The analysis of the aforementioned includes the years 2015–2020. The applied research method involved the analysis of the legal acts from the area of environmental protection.

The challenges attributable to the excessive load put on the natural environment by the industry necessitate research and analyses in the area of sustainable development. The conducted research bridge the research gap in the field of legislation and legal regulations on the environmental protection.

THE ROLE OF THE STATE IN THE ECONOMY

When describing the limits of the active influence of politics on the economy, we should define the goals of an organization called the state. A retrospective approach to the role of the state in the economy dates back to the considerations of “how much state should there be in the economy”.

Focusing on the analysis of the issue, what springs to mind is the ancient management, founded mostly on natural capital such as pastures, fields and livestock, which produced the rules (currently called the regulations) that allowed ordering the then system of management processes. The constructed system allowed answering the following questions: who has the right to specific resources (the equivalent of the contemporary property rights), who is entitled to what and along which criteria (the equivalent of the contemporary redistribution and division). The reflections over “*nómos*” led to the establishment of legislation that would regulate the functioning of “*oikos*”, i.e. a community within each household of the then economy, giving due attention to the interest of the feudal lord and the development of the economy.

In modern history, the function of the regulator was assumed by the state. The modern complement to the function of the state as

a regulator was its market alternative, represented by the free market regulating the exchange transactions. Nonetheless, the current dominance of the globalization processes extends both the scope of “*oikos*” as well as the inherent laws, leading to “*global governance*” comprising the share of all countries in the processes of division and redistribution of global resources. In this way, that issue boils down to considering the Earth as a model household (Fiedor et al., 2015). In this context, we perceive the significance of the institutional paradigm which was dominant in the European political science in the early decades of the 20th century. In this period, the political theory that from its onset was one of the three tiers of the emerging political science, was attributed primarily the functions of the analytical tool for the analysis of ideas and political concepts, and the “considerations on the nature of the state” were crucial (Gunnell, 1983).

Further in history, the perceived importance of an institution as one of the non-price mechanisms applied to coordinate economic processes became one of the key elements of the Post Walrasian economic program authored by David Colander. The concept disparaged the fundamental principles of the economy that was founded on Leon Walras scientific concept, primarily in the area of general economic equilibrium theory, despite the fact that the considerations did not include Walras concept of the market.

In this place, it seems appropriate to mention that L. Walras (1834–1910), who dealt primarily with the economic policy, focused in his book “*Éléments d’économie politique pure*” of 1874 mainly on the process of adjusting the prices of commodities to their supply to reach a balance that he called “*tâtonnement*”. He formulated a paradigm maintaining that the aggregate demand always equals supply (Walras law), while disregarding other factors (Walras, 2010).

Post-Walrasian economics denies the existence of micro-economic basis for macroeconomics that would disregard social factors. On the aggregate level, behaviours are not a mere sum of decisions of individual entities. Optimization of the management process (which may be considered reaching equilibrium) may be provided by such institutions as conventions, social, legal and market norms, or unintentional coordination mechanisms. Their operation consists in imposing the external limitations on an individual or reducing the complexity of the decision making process by improving the flow of information

among the entities (Famielec, 2015). As Ireneusz Dąbrowski notes, the successive research work proved how little was explained by Walrasian models in the area of aggregate behavior of entities (Dąbrowski, 2015).

It is considered that the market and market growth model are not a solution to all socio-economic issues, as they reduce sustainability of growth and sustainable development, including the ecological barrier which consists in the exhaustion of resources, external effects that are not internalized in the account of the perpetrators and which are a burden to the state or consumers. That is why it is prerequisite to supplement classical Solow model where apart from the traditional factors such as fixed assets, labour and total productivity of factors, we also find new factors decisive for the sustainability of growth. Such factors include ecological factors e.g. land, non-renewable resources and the volume of emissions (Fiodor et. al., 2015).

Additionally, with the dwindling natural capital resources (Fuller, Ottman, 2004), the question arises as to the size of impact exerted on the rate of economic growth resulting from Solow residual, related to total productivity of production factors. The value of that parameter of the production function depends on the range of values of particular variables, which also include natural capital (Fiedor et al., 2015). Tomáš Sedláček (2012) claims that economic policy pursuing merely material goals leads solely to indebtedness. At this point, it should be noted that there is ongoing indebtedness of countries, including the eco-debt to be borne by the future generations. In keeping with the foregoing, the role of the regulator assumed by the state is becoming more and more important.

Walter Eucken's constituting principles are the foundation of the institutional conduct, and they teach coordination processes prerequisite for the provision of socio-economic equilibrium. They facilitate formation of the structure of the economy and the society whose development is not decided merely by the increased production (gauged by GDP) but also, and foremost, they help to create a good society. That society, apart from providing market goods, relations including respect for people and the natural environment, helps to care for the present and the future generations, has good intentions, is not greedy but wise, cooperating with itself and is not prone to herd effect. Within that scope, Eucken's development and economic

policy principles may become an alternative for the measurement of the growth gauged merely by the production function (Famielec, 2015).

SELECTED LEGAL RELATIONS IN THE AREA OF THE NATURAL ENVIRONMENT PROTECTION

The EU policy of the environmental protection which came into life during Paris European Council in 1972, gained real significance during the discussions of the then heads of governments and states. It was then they perceived the need for the common EU environmental policy. Further, the concept of environmental protection was introduced as a legal basis for the common European policy of the then European Economic Community in the form of a Single European Act. It was to become an international agreement drawn within the framework of the European Community in 1986², binding until 1 July 1987 (Official Journal of the European Communities, 1987). The necessity to introduce the environmental element into other areas of the EU policy was put forward by the European Council during the Cardiff Assembly in 1998. Common environmental policy was poised to protect the quality of the natural environment, protect human life, and guarantee rational exploitation of natural resources (Laky, 2019).

It should be noted that a non-sustainable development in a state-controlled economy lowers the efficiency of production and consumption, the quality of life and economic growth. A non-sustainable economic development has such detrimental effects as unemployment, infringement of consumer sovereignty and enforcement of a material style of life, dehumanization of human relationships, depletion of natural resources as well as a growth of ecological threats (Famielec, 2015). That is why the European Commission perceived the need to pursue sustainable development and growth based on a high level of protection and the improvement of quality of the natural environment.

2 *Single European Act (SEA)* signed in: Luxembourg (Luxembourg) 17 February 1986 and in The Hague (The Netherlands) 28 February 1986.

One of the provisions of the Treaty on the European Union says that the Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment” (Official Journal of the European Union, 2008). It should be remembered that the treaties are a starting point for the EU legislation and they are considered primary laws. The secondary EU laws facilitate implementation of the principles and goals written in the treaties and present in the EU policy. The foregoing include regulations, directives, decisions, recommendations and opinions.

Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, enforced as of 17 June 2018 (Official Journal of the European Union, 2018a), is another important document on the environmental protection.

There are four directives enforced as of 30 May 2018. Directive (EU) 2018/849 of the European Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment (Official Journal of the European Union, 2018b); Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste (Official Journal of the European Union, 2018c); Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Official Journal of the European Union, 2018d) and Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste (Official Journal of the European Union, 2018e).

Special attention merits Directive (EU) 2018/849 of the European Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment (Official Journal of the

European Union, 2018b). The enforced directive, amended by article 22a (EU) 2006/866/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EC (Official Journal of the European Union, 2006) and amending directive (EU) 2012/19/UE of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (Official Journal of the European Union, 2012) by directive 16a it was decreed that the EU member states provide incentives to follow the hierarchy of conduct in treating waste with the use of economic instruments and other means such as those quoted in the appendix IVa to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Official Journal of the European Union, 2008).

Regulations are the legal acts that are applied in full and directly in all the member states. They are enforced on the date included therein and they applicable directly, which means that no additional transposition of the law contained in the regulations into the domestic legal systems or other legislative measures is required. Moreover, the national authorities are obliged to repeal any regulations not consistent with the wording of the regulation and are forbidden to pass legal acts inconsistent with its content. Directives, on the other hand, are legal acts setting the goals the members states are obliged to pursue with the application of their own legal acts. Directives passed jointly by the European Parliament and the EU Council are enforced on the appointed day or twenty days after their proclamation. It should be noted that by signing the accession treaty, Poland became obliged to respect all acts passed by the Community institutions, including those passed prior to Poland's accession, jointly with the acts on the environmental protection.

ECONOMIC ASPECTS OF THE LEGISLATION

The analyzed documents present the proposed economic instruments and other incentives encouraging application of procedures for waste treatment. The foregoing directives decided that the EU member states apply the incentives for businesses such as tax breaks

promoting free return of products for re-use (especially food items) as well as support research and innovation activity in the area of advanced technologies of product recycling and regeneration. Eco-design is the basis for launching such innovations. Products should be designed in such a way as to minimize the costs of their recycling. Nonetheless, the design should be altered so that to eliminate excessive waste, and once it cannot be avoided, it should facilitate reuse. The presence of products on the market which, after their useful life, end up as waste disposed to the landfills demonstrates that the entrepreneurs are not much interested in eco-design.

Reducing the costs of recycling is an important aspect of eco-design. It should be noted that it is difficult to forecast total future costs of recycling at this stage. In estimating the costs, it is recommended to consider the current market prices of recycling materials, i.e. the prices quoted for their purchase. In the process of recovery of materials and raw stuffs, there are costs incurred by the recycling companies that strip the products for their reuse. It should be noted that the costs of recycling involve transport of waste (e.g. the cost of fuel), its storage as well as the storage of the selected components obtained by stripping the materials/salvaging (Dostatni et al., 2013). Among other issues, there is the problem posed by rapid innovations in electronics with the use of raw materials and metals of rare earths. Electronics industry is the fastest growing industry, while innovations in the area of salvaging those materials from waste lag behind. This leads to non-sustainable use of raw stuffs and materials which are not supplemented by the volume of recycling materials (O'Connor et al., 2016).

In the analysis of requirements specified by the directives regulating the issues of launching innovations, special attention should be paid to the proposals for the public administration such as due diligence in designing the investment projects in waste management infrastructure (with the use of the EU funds) as well as sustainable public procurement encouraging better management of waste and the use of recycling materials and products. In addition, it was recommended that the countries apply economic incentives to the local and regional authorities, particularly those curbing waste and developing active selective collection systems while withdrawing support from landfilling and incineration.

In the area of corporate activity, it is recommended to launch the systems of extended producer responsibility for various kinds of waste as well as the measures to improve their efficiency, profitability and management, in line with the systems of returning the deposits and other measures encouraging collecting used products and minerals. This necessitates investment outlays on the part of the state and implementation innovations to launch and use the best available technologies of waste treatment.

As indicated above, innovation is an important part of political acts and passed legislation. This is apparent on the example of the goals set in the Lisbon Treaty that envisage increasing the attractiveness of the EU member states and fostering conducive environment for the investors, increasing employment and pushing the development via knowledge and innovation, giving due concern to upholding various standards of the environmental protection (Official Journal of the European Union, 2009). The importance of eco-innovation is confirmed by the statement that it contributes to the creation and development of new products and processes providing added value to the consumers and companies, and at the same time reduces the negative impact of products on the environment (Jones et. al., 2001).

In addition, the recommendations contained by the directives pertain to levying charges on landfilling and incineration of waste while encouraging waste prevention and promoting recycling. Landfilling is considered to be the least desirable form of waste disposal, and it is envisaged to set up a system of charges that would be proportionate to the volume of generated waste and that would be levied on producers on the basis of the actual waste. The charges would encourage segregation of recyclable waste at the source while reducing the volume of mixed waste. In addition, it is suggested that on the one hand the member states gradually reduce subsidies that are not consistent with the hierarchy of waste management, and on the other hand apply fiscal instruments or other measures supporting the use of recyclable or recycled products and materials.

Bearing in mind the above instruments, it should be noted that their implementation involves meeting certain barriers such as a high cost of segregation, power consumption, inferior quality of salvaged materials, and finally low economic value of the process itself (Fan et al., 2019). This has been substantiated by the research carried out

on the basis of the evidence derived from individual interviews with experts who assert there is little interest in salvaging materials or recycling waste. This is because the cost of retrieving recyclables is higher than the cost of primary materials. Consequently, the entrepreneurs do not perceive any financial benefits that would flow from the application of circular economy (Hartley et al., 2020).

The ecological awareness of the society is also important, as it sets social responsibility for the environment as a paragon of behavior to follow. Hence the directives highlight the importance of public campaigns aimed at raising that awareness, particularly in the area of selective collection of used materials, preventing the accumulation of waste and reducing its volume as well as putting those issues on the educational and training agendas. They also stress the importance of coordination of activity of all sorts of public organs engaged in waste management, including the use of digital technologies as well as fostering the on-going dialogue and co-operation between all stakeholders involved in waste management, encouraging voluntary agreements and reporting business waste.

CONCLUSIONS

In summary, it may be asserted that it is not advocated to propagate revolutionary changes and excessive restrictions in the economy through political actions, and it is much more advisable to follow the evolutionary course. Poland, similarly to other EU member states, undertakes activities in the area of environmental protection, which call for the implementation of proposals stipulated by the directives. The reason for that is that ecological threats due to the exhaustion of resources and generating pollution in the environment are not accounted for by the perpetrators, and they become a burden to the country and its society. In the developed countries, economic growth is a priority and in the process the burden on the natural environment attributable to human activity is often ignored. Hence, the market and market models of economic growth do not take into account socio-economic problems that hinder sustainability of growth, i.e. sustainable development.

This helps to demonstrate the importance of the state's intervention, as presented in the interpretation of Keynesian economics. That

is because the mechanism of the free market does not bring solutions to complex environmental issues that exert a negative social and economic impact. This is attributable to the fact that companies, to maximize their profits, transfer their costs to the natural environment and the society. Consequently, such conduct deteriorates the quality of food, air, and causes ecological and sanitary problems. Microeconomic factors are also extremely important. Nonetheless, the companies are affected by consumers whose decisions are best explained by the theory of consumer behavior.

By focusing on the proposed solutions provided by the EU legal regulations, the member states (including Poland) should increase the number of ecological households and ecological farm produce, the efficiency of resources, and the reuse of materials. The activities aimed at changing the linear economy into a circular economy include improvement of waste management. Attention shall be brought to the reduction of waste, particularly vehicles past their useful life, batteries and accumulators and obsolete electrical and electronic equipment due to the fact that they are a health hazard. The basic obligation of management of hazardous materials is their segregation and collection, as used up batteries are hazardous waste and by no means they should be dumped to the landfills.

It is estimated that most used in Poland batteries are disposable ones as well as those with a short life. Once they have been used up, they become hazardous waste or waste that requires special treatment. By disposing batteries to municipal dumps, who are then disposed of by storage, incineration, composting, and then incineration in garbage incineration plants leads to increasing the content of heavy metals in landfill sewage, composts as well as ashes, slags and filter fillings from waste incineration plants (Nowacki & Mroziński, 2012).

Future changes in legislation should stipulate requirements that would envisage benefits both for the producers as well as the economy. The cooperation of enterprises with the research institutes is also important. Therefore, the focus of political actions and the passed legislation should be the solutions that support eco-innovations.

On the basis of the analysis it may be concluded that a model of socio-economic growth is sought both in theory as well as in science. That model would produce synergy effect between the environmental protection, economy and countries' policy. The economists do not

stop searching the effective theories and models for socio-economic development, and there is no agreement on the role of the state and the market in economy (Famielec, 2015). It should be noted that there is high importance of interdisciplinary research within the area of socio-economical issues as well as trans-disciplinarity necessitated by the need for theoretical development of science and mutual interactions among various disciplines, and includes the ability to adapt various solutions from some areas to others (Fiedor et al., 2015).

Many economists and Noble prize winners point to the need to reform scientific disciplines and change their paradigm. Those issues are discussed globally, and pose research challenges (Fiedor, 2015). Much emphasized is the importance of a new paradigm in science that will allow optimal management of nature.

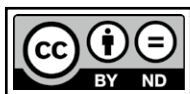
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