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THE LEGAL FOUNDATIONS OF ENVIRONMENTAL PROTECTION IN THE EUROPEAN UNION

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Danyliuk L.R. The legal foundations of environmental protection in the European Union.¹

Academic research engages in ongoing debate regarding the legal nature, interrelationship, and correlation between legal principles and legal norms; between legal principles and the principles of legal regulation; as well as between legal principles and the principles of legal policy. Nevertheless, it is the principles of law that constitute the fundamental basis and structural framework upon which all other legal elements are built. These principles guide the legal regulation of social relations and shape the direction of legal policy. In this regard, it is appropriate to approach these concepts from a perspective that distinguishes between the primary and the derivative.

In specialised doctrinal literature, alongside the principles of EU law, particular attention is devoted to the legal nature and distinctive features of the concept of "EU values", and to the relationship between the categories "principles of EU law" and "EU values".

This article offers a comprehensive analysis of the legal foundations of environmental protection in the European Union through the lens of the categories "EU values", "principles of EU law", and "principles of EU environmental law". It elucidates their core meanings, provides a systematic classification, and presents the author's original approach to interpreting the content and internal structure of the EU's legal framework for environmental protection.

The author's proposed "legal foundations of environmental protection in the EU" emphasises the importance of a holistic examination, encompassing not only the specific principles of EU environmental law, but also the broader ideological benchmarks of the legal regulation of environmental relations across the Union.

The article concludes that the most optimal internal structure of the EU's legal framework for environmental protection is reflected in the following three-tiered classification of principles: 1) values-principles or mega-principles: equality, the rule of law and respect for human rights, justice, security, the sustainable development of the Earth, free and fair trade, eradication of poverty and the protection of human rights; 2) general principles of EU law: principle of EU law primacy, principle of EU law direct effect, principle of cooperation, principle of integrating environmental issues into EU policies and actions, principle of subsidiarity, principle of proportionality; 3) special principles of EU environmental law: precautionary and prevention principles, principle of rectification of damage at source, principle of sustainable development, the polluter pays principle.

Key words: EU law, environmental protection, principles of EU environmental law, precautionary and prevention principles, principle of rectification at source, sustainable development, the polluter pays principle.

Данилюк Л.Р. Правові засади охорони довкілля в Європейському Союзі.²

В наукових дослідженнях зустрічається ряд дискусій щодо правової природи, взаємозв'язку та співвідношення принципів права й норм права, принципів права та принципів правового регулювання, принципів права й принципів правової політики тощо. Однак саме принципи права є першоосновою та конструкцією на яких базуються усі інші елементи права й які визначають напрями правового регулювання суспільних відносин і вектори правової політики. Тобто в даному контексті доцільно вести мову про генезу вказаних понять як про первинне та похідне. Також у спеціальних доктрин-

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² Фінансується Європейським Союзом. Проте висловлені погляди та думки належать лише автору і не обов'язково відображають Європейський Союз або Європейське виконавче агентство з освіти та культури. Ні Європейський Союз, ні орган, що надає гранти, не можуть нести відповідальність за них.

нальних працях поруч із принципами права ЄС окрема увага присвячується правовій природі та особливостям поняття «цінності ЄС», співвідношенню категорій «принципи права ЄС» і «цінності ЄС».

В представленій статті здійснено всебічний аналіз правових засад охорони довкілля в ЄС через призму категорій «цінності ЄС», «принципи права ЄС», «принципи довкілльового права ЄС», з'ясовано їх суть, проведено структурування та представлено авторський підхід до розуміння змісту й внутрішньої побудови системи правових засад охорони довкілля в ЄС.

Запропонована автором конструкція «правові засади охорони довкілля в ЄС» наголошує на необхідності вивчення не тільки спеціальних принципів довкілльового права ЄС, але всіх ідеологічних орієнтирів правового регулювання екологічних відносин у ЄС комплексно.

Автор приходить до висновку, що найоптимальніше внутрішню побудову системи правових засад охорони довкілля в ЄС відображає наступна структура принципів: 1) цінності-принципи або надпринципи: рівність, верховенство права та повага до прав людини, правосуддя, безпека, сталий розвиток планети, вільна справедлива торгівля, викорінення бідності та захист прав людини; 2) загальні принципи права ЄС: принцип верховенства права ЄС, принцип прямої дії права ЄС, принцип співпраці, принцип інтеграції екологічних питань в політику та дії ЄС, принцип субсидіарності, принцип пропорційності; 3) спеціальні принципи довкілльового права ЄС: принципи перестороги та попередження, принцип виправлення шкоди в джерелі її виникнення, принцип сталого розвитку, принцип забруднювач платить.

Ключові слова: право ЄС, охорона довкілля, принципи довкілльового права ЄС, принципи перестороги та попередження, принцип виправлення шкоди в джерелі її виникнення, принцип сталого розвитку, принцип забруднювач платить.

Introduction. In the theory of state and law, the fundamentals of legal regulation of social relations are defined through the concept of "principles". In essence, principles are the foundation upon which the entire legal system is built; they shape the directions of regulation for all legal relations and serve as a guiding framework for the development of society and the state.

In scholarly literature, one can encounter numerous discussions regarding the legal nature, interrelation, and correlation between the principles of law and legal norms, the principles of law and those of legal regulation, as well as the principles of law and the principles of legal policy, among others. It is evident that the principles of law serve as the foundation and structural framework upon which all other elements of law are based, and they determine the directions of legal regulation of social relations and the vectors of legal policy. In this context, one may thus speak of the genesis of these concepts in terms of primary and derivative elements.

In the meantime, various criteria for classifying the principles of law are known, one of the most common being the scope of their application. Based on this criterion, principles are typically divided into general (universal for all branches of law), sectoral (characteristic of a specific branch of law), and intersectoral principles (applied across several branches of law).

When discussing the principles of European Union law, it is important to note that they are considered guiding foundations that concisely express the essential characteristics and values of the EU legal system. These principles define both the specific content and the general conceptual direction of legal regulation of social relations within the framework of the European Union. They are diverse and are distinguished by their origins (material sources), the sources of their codification (formal sources), their substance, and their functional significance [1, p. 10].

Moreover, in specialised doctrinal studies, alongside the principles of EU law, particular attention is devoted to the legal nature and specific features of the concept of "EU values", as well as to the relationship between the categories of "principles of EU law" and "EU values."

In particular, V. V. Kolesnichenko concludes that the values of the European Union are the general principles of EU law of the highest order ("mega-principles", so to speak), reflecting the foundations that form the legal heritage of modern European civilisation, the observance of which is guaranteed at a high – supranational – level. They can also be called values-principles, since many of them (freedom, democracy, the rule of law, respect for human rights and fundamental freedoms) were previously stated in Art. 6 of the Treaty on European Union of 1992, where they were called "principles". In addition, in other articles of the Treaty on European Union as amended by the Treaty of Lisbon (e.g. Art. 21), these values are also called "principles". In the same article, where the values of the Union are enshrined, they are recognised as common to all Member States, i.e. they fall into the category of general principles of law; they are the fundamental principles that form the legal heritage of modern European civilisation [1, p. 10].

Based on relevant theoretical approaches, the formulation of the article's topic is also substantiated. The article emphasises the need to analyse not only the specific principles of EU environmental law but also all legal foundations of environmental protection in a comprehensive manner.

The purpose of the research. The article is aimed at conducting a comprehensive analysis of the legal foundations of environmental protection in the EU through the lens of the categories "EU values", "principles of EU law," and "principles of EU environmental law." It seeks to clarify their essence, perform a structural classification, and present the author's own approach to understanding the content and internal structure of the system of legal foundations for environmental protection in the EU.

The state of studying of the issue. The analysis of recent publications shows that the principles of EU law in general – and the principles of EU environmental law in particular, including their content, classification, and interrelation – have been the subject of scholarly exploration by both domestic legal scholars and international researchers. The doctrinal foundation for this work includes the studies of V.V. Kolesnichenko, Ph. Sands, S.M. Kravchenko, O.A. Andrusevych, Jn.E. Bonine, Yu.S. Shemshuchenko, N.R. Malysheva, L.L. Bohachova, M.M. Mykievych, N.I. Andrusevych, T.O. Budiakova, N. de Sadeleer, B. Sjaafjell, among others.

However, the topic of legal principles of environmental protection in the EU is mostly developed at the level of studying special principles of EU environmental law. Therefore, in legal literature, attention is mainly paid to independent consideration of the precautionary and prevention principles, rectification of damage at source, sustainable development, the polluter pays principle, and others. Therefore, the chosen direction of this scientific discussion is relevant and important.

Presenting the main material. Findings and discussion. The successful achievement of the stated objectives depends on the correct interpretation of the general theoretical understanding and significance of the features, role, and classification of legal principles, among other aspects.

Among the key features of the principles of law, the following are commonly identified: they serve as a concentrated expression of the essential characteristics and values inherent in a given legal system; they possess the most general nature; they determine the substantive character of the legal system and its structural subdivisions, as well as the directions of their further development; they hold priority over legal norms; compared to legal norms, they are more stable (i.e. they remain unchanged over long periods of time); they act as a general standard of conduct without specifying rights and obligations; they are typically enshrined in external forms (sources) of law; they may also be applied in unwritten form; an important way in which they are manifested is through judicial practice [2, p. 7].

As for the role of the principles of law, in the EU legal system they are characterised as follows: first, they serve as the framework – the supporting structure – of the legal system; second, they act as a guiding compass in the formation and development of law, providing legislators with leading ideas that shape the improvement of legal norms; third, they have a significant influence on the formation of legal consciousness, as people in their everyday lives tend to be guided not by specific legal norms but rather by legal principles; fourth, they may serve as a direct basis for making individual legal decisions in specific cases; fifth, in situations where there are gaps in legislation, legal principles may be used as a legal basis for resolving legal disputes, thereby functioning as a source of law; sixth, legal principles contribute to the proper interpretation of legal norms [1, p. 11].

Therefore, the system of principles of European Union law is a set of closely interrelated and hierarchically structured guiding foundations that determine both the general conceptual orientation and the specific content of the legal regulation of social relations within the framework of the European Union [1, p. 17].

To conclude, the principles of EU environmental law are the fundamental approaches enshrined in EU legislation that shape the further directions of legal regulation of social relations in the field of protection, use, and restoration of natural objects and their resources, the implementation and protection of environmental rights within the EU, and the assurance of environmental safety.

Moreover, EU environmental law now comprises the general principles and rules set forth in the EC Treaty (and the EURATOM Treaty), as amended, together with hundreds of Directives, Regulations and Decisions addressing environmental issues which have been adopted since 1967, and the obligations arising for the EC under the many international environmental agreements to which it is a party [3, p. 749].

It is worth noting that the special principles of international environmental law, which have been fully developed and are universally recognised, include: the right of individuals to live in a healthy environment and the responsibility to protect and improve the environment for the benefit of present and future generations; the sovereign right of states to exploit their natural resources and their obligation, within the framework of national jurisdiction, not to cause environmental harm to other states; international responsibility for causing such harm; international cooperation among states in the field of environmental protection based on equality; prevention of marine pollution and harm to the environment [4, p. 27-28]. Additionally, they include: sustainable development, which implies the integration of environmental concerns into economic and social development; environmental security

of states based on mutual cooperation; the precautionary principle in environmental activities; a coordinated approach to environmental planning and management; an effective and dynamic role of international organisations in environmental protection and improvement; scientific justification of environmental measures; compliance monitoring of agreed environmental standards among states; public access to environmental information and participation in solving environmental issues; dissemination of environmental information and knowledge among the population; compensation for environmental damage, including on the basis of the "polluter pays" principle; and the peaceful resolution of environmental disputes between subjects of international environmental law [5, p. 755].

It is clear and logical that the principles of EU law are classified according to various criteria and approaches, among which the most common are the scope of application (general and specific), the acts of codification (founding treaties, secondary legislation, case law, international documents), internal structuring (vertical and horizontal), and others.

According to L.L. Bohachova, the classification of legal principles holds both theoretical and practical significance. It allows for a deeper understanding of the legal nature of legal principles; the establishment of vertical and horizontal connections between different groups (types) of legal principles within the same category; the determination of each principle's place in the systemic-hierarchical structure of law; and the development of recommendations aimed at enhancing their regulatory effectiveness [6, p. 47].

However, within the scope of this publication, the aim is not so much to examine existing criteria or identifying new approaches to the classification of EU environmental law principles, but rather in organising the existing legal foundations of environmental protection in the EU and presenting their comprehensive system.

Since the proposed topic goes beyond the context of the specific principles of EU environmental law and involves a comprehensive analysis of the legal foundations of environmental protection, it is necessary to proceed to the study of the interrelation between EU values and its environmental law.

EU Values and Environmental Protection. A unified and interdependent comprehensive system of EU legal principles was formed in accordance with the Treaty of Lisbon. This treaty represents ordinary amendments to the texts of two interrelated founding documents – the Treaty on European Union and the Treaty establishing the European Community. However, it also introduced changes to the system and content of the principles of EU law [7, p. 187].

In fact, the Treaty of Lisbon introduces the concept of "Union values," which are clearly and directly linked to legal principles. Thus, Article 2 of the Treaty on European Union, as amended, states: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail". As shown by a systematic interpretation of the provisions of the Treaty on European Union as amended by the Treaty of Lisbon, it is appropriate to refer to these values as values-principles, as they form the foundation of modern European civilisation. These values-principles differ from other principles of EU law also in terms of the level and rigor of their protection in the event of a violation. The Union itself serves as the guarantor of their observance by all Member States. Sanctions for non-compliant states are provided for in the founding treaty itself [7, p. 183].

The Treaty of Lisbon also enshrines in greater detail the values, interests, and principles that govern the European Union's relations with the wider world. According to paragraph 5 of Article 3 of the Treaty on European Union, these include: peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter [7, p. 184].

In support of V.V. Kolesnichenko's reasoning and the proposed approach to understanding values-principles, it is also important to emphasise their significance beyond established or formal norms. On the one hand, there are the fundamental tenets that must, by default and without question, be present in any democratic entity – principles that we perceive as inherent and inalienable. On the other hand, it is precisely in the functioning of legal relations related to the protection, use, and restoration of natural objects and their resources, the realisation and safeguarding of environmental rights in the EU, and the guarantee of environmental security, that the role of such "mega-principles" is demonstrated – equality, the rule of law and respect for human rights, justice, security, the sustainable development of the Earth, free and fair trade, eradication of poverty and the protection of human rights.

General Principles of EU Law and Environmental Protection. In European law, the main source of legal principles was initially case law. When formulating the legal principles of the Union, the Court of Justice

of the European Communities relies on the common constitutional traditions of the Member States and the generally recognised principles of international law. A number of principles of both general and specific nature are enshrined in the founding treaties of the European Community and the European Union. Other principles, which fall into the category of general principles, are mainly established in the decisions of the Court of Justice of the European Communities [8, p. 79].

Nicolas de Sadeleer among the provisions of the EU's founding documents, identifies the following as addressing environmental protection: Article 3 (3) TEU, Articles 114 (3), ст. 191 TFEU, Article 37 EUCHR [9, p. 454].

According to Article 3 (3) Treaty on European Union, the Union shall establish an internal market. It 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. It shall promote scientific and technological advance [10].

The provisions of the Article 114 (3) Treaty on the Functioning of the European Union state that the Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective [11].

In accordance with the Article 191 Treaty on the Functioning of the European Union, Union policy on the environment shall contribute to pursuit of the following objectives: preserving, protecting and improving the quality of the environment; protecting human health; prudent and rational utilisation of natural resources; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay [11].

Article 37 Charter of Fundamental Rights of the European Union proclaims that a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development [12].

In addition, environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development (Article 11 Treaty on the Functioning of the European Union) [11].

It is evident that the environmental integration that this rule mandates for the EU is arguably a necessary contribution to achieve policy coherence for sustainable development, or sustainability – as it currently often denoted [13, p. 1]. The integration principle became part of the EU Sustainable Development Strategy, which provides a long-term vision that involves combining a dynamic economy with social cohesion and high environmental standards. It requires a new emphasis on policy coordination and integration. As part of the implementation of the EU Sustainable Development Strategy, the Commission has introduced a system of extended impact assessment for all major policy proposals. Furthermore, the integration principle became part of the Cohesion Policy which – as the EU's main investment policy – has a particular responsibility to mainstream environment into its programmes and projects [14]. Thus, the framework of EU policy is embedded within the concept of sustainable development. Sustainable development is referred to in the Treaty as an overarching, long-term objective of the European Union [15, p. 14].

However, some of the analysed articles and the ideological directions of EU environmental policy enshrined in them go beyond general objectives and fall within the scope of specific principles of EU environmental law.

As for the general foundations of environmental protection in the EU, it should be noted that some publications also classify the following as general principles: EU law primacy, effectiveness, direct effect, integration [14]. In addition, the field of European environmental law applies procedural principles of EU law, such as the principle of proportionality and the principle of subsidiarity [14; 8, p. 79]. Some of these principles have been established through the case law of the Court of Justice in the legal order of the European Union and are reflected in the founding treaties of the EU [16; 14].

Therefore, the limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred

upon the Union in the Treaties remain with the Member States. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties. The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality (Article 5 Treaty on European Union) [10].

In order to better understand the principles and their content, it is necessary to examine examples of their application. In Case C-491/01 *British American Tobacco (Investments) and Imperial Tobacco*, para. 181–183, the CJEU concluded that eliminating the differences on the manufacture, presentation and sale of tobacco products, while ensuring a high level of health protection, is in line with the principle of subsidiarity. In Case C-358/14 *Poland v Parliament and Council*, the CJEU confirmed that the EU was permitted to prohibit the sale of menthol cigarettes in the European internal market. According to the Court, the prohibition cannot be regarded as manifestly inappropriate for achieving the objective of facilitating the smooth functioning of the internal market for tobacco and related products, taking as a base a high level of protection of human health, especially for young people. Any less restrictive measures do not appear to be equally suitable for achieving the objectives pursued [14].

According to Yu. V. Shabardina, the principles of proportionality and “smart regulation” can be considered complementary. Proportionality, as defined in Article 5 of the Treaty establishing the European Community, implies that authorities may not impose obligations on citizens that exceed the limits of necessity arising from public interest. “Smart regulation” refers to achieving results in the least burdensome way possible [17, p. 577].

Based on the analysis of the provisions of the EU founding treaties, as well as the reviewed academic studies, relevant case law examples, it is appropriate to highlight the following general principles of legal environmental protection in the EU: principle of EU law primacy, principle of EU law direct effect, principle of cooperation, principle of integrating environmental issues into EU policies and actions, principle of subsidiarity, principle of proportionality.

Special Principles of EU Environmental Law. Drawing on the examined sources, the following special principles of EU environmental law can be identified: precautionary and prevention principles, principle of rectification of damage at source, principle of sustainable development, the polluter pays principle.

The precautionary and prevention principles, while similar in phrasing, differ significantly in substance, rationale, and application. Specifically, the precautionary principle is invoked in situations where environmental risks associated with a particular activity have not been fully proven or scientifically confirmed. In such cases, there exists only a reasoned probability or suspicion of potential environmental harm.

Where there is uncertainty about the risk of environmental harm, the precautionary principle allows or requires protective measures to be taken without having to wait until the harm materialises. There is a set of factors shared in every definition of the precautionary principle – existence of danger and scientific uncertainty. As a result, the precautionary principle always deals with potential harm and serves as a tool to bridge uncertain scientific information and a political responsibility. For instance, in Case C-254/19 *Friends of the Irish Environment*, the CJEU held that the assessment of a project’s implications must be carried out where it cannot be ruled out, having regard to the best scientific knowledge in the field, that the plan or project might affect the conservation objectives of the site. A previous assessment of that project, carried out before the original consent for the project was granted, cannot rule out that risk unless it contains full, precise and definitive conclusions capable of removing all reasonable scientific doubt as to the effects of the works, and provided that there are no changes in the relevant environmental and scientific data, no changes to the project and no other plans or projects [14].

In contrast, the prevention principle is applied to foresee and prevent environmental harm before it occurs. In essence, it requires preventive steps towards activities whose environmental risks have already been proven.

Unlike the precautionary principle, it is applied in law and policy when the risk of harm to the environment is clear. However, the precautionary and prevention principles have been closely linked to one another; for example, in the case of ozone-depleting chemicals. In the 1970s, there was the general

consensus (but no proof) at the international level that chlorofluorocarbons could destroy the ozone layer. Thus, their use was cautioned (precautionary). By the late 1980s, scientific evidence emerged that depletion of the stratospheric ozone layer increased ultraviolet radiation exposure, exacerbating the risk of skin cancers and cataracts in humans and animals. This prompted a preventive approach, requiring the phase-out of chlorofluorocarbons. Until the agreement of the Montreal Protocol in 1987, there was uncertainty as to which principle was being relied upon, but there was a scientific consensus on the risk of harm by the time the Protocol came into force in 1989 [14].

The principle of rectification of damage at source aims to minimise negative environmental impacts at the point of their origin. This principle is not merely concerned with the elimination of environmental damage, but rather with minimising its spread.

For instance, in Case C-2/90 *Commission v Belgium*, the CJEU held that the principle that environmental damage should as a matter of priority be remedied at source entails that it is for each region, municipality or other local authority to take appropriate steps to ensure that its own waste is collected, treated and disposed of; it must accordingly be disposed of as close as possible to the place where it is produced, in order to limit as far as possible the transport of waste [14].

In wider sense, the principle serves as an overriding guide to policy, opposite to end-of-pipe approach. For instance, encouraging the development of environmentally friendly technologies and products to reduce pollution at the earliest stage. Instead of the general environmental situation, the principle emphasises proximity to the source, to effectively fight accumulation of the negative externalities. In Case C-364/03 *Commission v Greece*, the CJEU held that the obligation of the Member States to adopt the measures necessary to reduce the emissions of sulphur dioxide and nitrogen is not dependent on the general environmental situation of the region in which the industrial plant in question is located inasmuch as it is undisputed that these substances have harmful effects on human health and on biological resources and ecosystems [14].

Thus, the essence of this principle lies in its application to: prevent pollution at source rather than addressing its consequences; direct the regulation of environmental pollution as close as possible to the point of origin rather than across the broader environment; serve as a policy guideline rather than an absolute rule.

When analysing the principle of sustainable development, it is important to note that it is frequently classified among the general principles of EU policy. This is clearly reflected in the relevant provisions of the EU's founding treaties discussed earlier. Furthermore, it is widely recognised as an international principle that integrates environmental, social, and economic dimensions, and is actively implemented by the international community, thus serving as a key reference point for European development. However, it must be remembered that, historically, the principle of sustainable development originated as an environmental legal concept aimed at implementing the idea of "meet the needs of the present while not compromising the ability of future generations to meet their own needs".

In the secondary legislation, sustainable development serves as a framework principle behind the goals of environmental protection, either in specific legislation, or integrated into other policies. For example, according to recital 5 of the Birds Directive, the conservation of the species of wild birds naturally occurring in the European territory of the Member States is necessary in order to attain the European Union's objectives regarding the improvement of living conditions and sustainable development. As a consequence, inter alia, hunting of birds is restricted to certain species, must be compatible with maintenance of the population of these species at a satisfactory level, and must consider other satisfactory solutions (See Case C-161/19 *Commission v Austria*) [14].

The polluter pays principle is considered one of the most effective mechanisms for placing financial responsibility on polluters for the consequences of their actions. However, it is important to emphasise that this principle is multifaceted and cannot be reduced solely to measures of legal liability. In practice, its implementation is aimed at: investing financially in production processes to prevent pollution, including the use of the best available technologies and other preventive measures; compensating for environmental damage caused by the actions or inaction of the polluter; covering costs associated with the long-term use of products and the environmentally sound management of such products after the end of their useful life (e.g., post-warranty use, recycling, disposal, etc.).

The polluter pays principle (PPP) requires polluters to bear the environmental and social cost of their actions. Prior to the recognition and application of the PPP, air and water resources were used as 'sinks' for pollution, with damage to human health and property being paid for by society rather than by the polluter. Disproportionate social and private costs of pollution were /being 'externalised' from the polluter to wider society. The PPP aims to overcome these defaults by requiring polluters to internalise the cost of potential pollution in the production process (built-in costs), rather than allowing society to incur costs in the aftermath. The PPP has been utilised as an economic tool for managing different types

of environmental pollution through embodiment in legislation. The PPP is not applied as an absolute rule, more as a method to determine the effectiveness of the financial burden as a whole [14].

It should also be noted that all the special principles of EU environmental law have been implemented through the instruments of EU secondary legislation, particularly through directives and regulations.

Conclusions. The principles of EU environmental law represent the fundamental approaches enshrined in EU legislation, which form the basis for the further development of legal regulation in the field of protection, use, and restoration of natural objects and their resources, the realisation and protection of environmental rights within the EU, and the assurance of environmental security.

The concept of the "legal foundations of environmental protection in the EU", as proposed in this study, emphasises the importance of analysing not only the special principles of EU environmental law but also the broader ideological benchmarks that inform and guide the regulation of environmental relations in the EU in a comprehensive manner.

To conclude, the most optimal internal structure of the system of legal foundations for environmental protection in the EU is reflected in the following classification of principles:

- 1) values-principles or mega-principles: equality, the rule of law and respect for human rights, justice, security, the sustainable development of the Earth, free and fair trade, eradication of poverty and the protection of human rights;
- 2) general principles of the EU law: principle of EU law primacy, principle of EU law direct effect, principle of cooperation, principle of integrating environmental issues into EU policies and actions, principle of subsidiarity, principle of proportionality;
- 3) special principles of the EU law: precautionary and prevention principles, principle of rectification of damage at source, principle of sustainable development, the polluter pays principle.

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