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Administrative and procedural status of entities involved in proceedings concerning violations of fisheries protection legislation

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Abstract

The aim of the study was to examine the procedural activities of authorised bodies in cases concerning violations of fisheries protection legislation. A systematic approach was used in the study to examine the institutional structure of fisheries protection authorities in relation to the National Police, courts and local executive authorities. The result was the identification of the key role of fisheries protection authorities in recording offences, as well as the determination of the need for more effective coordination of their activities with other law enforcement agencies. It was established that interaction with the National Police contributed to strengthening control over compliance with legislation, but had shortcomings in terms of the rapid exchange of information and proper documentation of violations. Court decisions were analysed, in particular rulings from 2023-2024, which illustrate practical problems of law enforcement in the field of fisheries. The analysis revealed inconsistencies in the courts' approaches to assessing the evidence in cases of violations of fisheries legislation, which negatively affects the legal certainty of court decisions. The judicial authorities performed the function

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of verifying the legality of the actions of administrative bodies, but the practice of applying sanctions varied depending on the specific circumstances of the case. The use of a comparative legal method made it possible to compare Ukrainian experience with the practice of EU countries, in particular, the approach of the European Court of Human Rights in the case of “Yaşar v. Romania” to the confiscation of property used for illegal fishing was analysed. This made it possible to identify common features in the application of sanctions and to justify the compliance of Ukrainian practice with European standards

Keywords: environmental challenges; aquatic biological resources; illegal fishing; violation of fishing rules; prosecution

Introduction

The relevance of researching the administrative and procedural status of parties involved in cases concerning violations of fisheries legislation is due, in particular, to the intensive degradation of aquatic ecosystems, the decline in commercial fish populations, the pollution of water bodies, and the increase in poaching. With the increasing anthropogenic impact on aquatic ecosystems, illegal fishing and violations of fishing rules are becoming a serious threat to the ecological balance and sustainability of fisheries. In this regard, it is important to improve administrative procedures aimed at bringing violators to justice, as well as ensuring the proper procedural status of all participants in the relevant proceedings.

Ukrainian and European legislation provides for administrative liability for violations of fisheries protection regulations, but their application in practice reveals a number of problems. In particular, there are difficulties in determining the competence of the authorities that consider such cases, as well as in ensuring the rights of persons subject to liability. The lack of clear procedural guarantees for the parties to the proceedings may lead to legal uncertainty, reduced effectiveness of fisheries protection measures and conflicts between state authorities and economic entities.

An additional challenge is the need to harmonise Ukrainian legislation with European standards of environmental control and human

rights protection in administrative proceedings. Research into the specific features of the administrative and procedural status of parties in this area will contribute not only to improving legal regulation, but also to increasing the effectiveness of the fight against illegal fishing and other environmental offences.

The study by I.Yu. Ragulin (2024) focused on the legal aspects of the use of aquatic biological resources in the context of Ukraine’s food security. The author examined regulatory mechanisms and their effectiveness in ensuring sustainable fisheries, focusing on gaps in legislation that create conditions for illegal fishing. The work of A.I. Ripenko and O.I. Nastina (2022) examines the problems of regulatory and legal support for fisheries and fish farming in Ukraine. A number of contradictions in the legislative framework were identified, in particular regarding the jurisdictional powers of various bodies, which creates obstacles to effective control over compliance with regulations in this area.

A.P. Sakhno and Ya.A. Kovalenko (2023) examined topical issues of interaction between law enforcement agencies in the field of fisheries protection. The authors focused on the mechanisms of cooperation between the water police and the State Fisheries Agency, analysing the effectiveness of joint fisheries protection raids and their impact on reducing the level of offences. A.P. Sakhno (2023) separately considered the jurisdictional

powers of the police on the water and the State Fisheries Agency, focusing on the problems of regulatory control of their activities during joint law enforcement measures.

The study by L. Kozhura (2021) was devoted to the legal aspects of aquaculture regulation in Ukraine. The author examined the legal basis for the functioning of the industry, analysed its shortcomings and proposed areas for improving legislation to promote the sustainable development of aquaculture. L.Ye. Kupinets and O.M. Shershun (2022) analysed the market for fishery and fish farming products, examining the relationship between supply and demand. The main factors influencing the economic efficiency of the industry and regulatory mechanisms that can contribute to its further development were identified. D.V. Fedchyshyn (2022) focused on practical legal issues of the use of aquatic biological resources in fisheries. The author examined the issue of compliance with environmental standards, the problem of illegal fishing, and the effectiveness of existing sanctions for violations of environmental legislation.

M. Mackay *et al.* (2020) analysed the interrelationship between illegal fishing, maritime crime, and social well-being. They found that illegal fishing is closely associated with labour exploitation and organised crime, necessitating strengthened international control and regulatory measures. T. Fajardo (2022) explored the European Union's approach to the criminalisation of Illegal, Unreported, and Unregulated (IUU) fishing. The author analysed the normative-legal mechanisms applied within the EU and assessed their effectiveness in combating offences in the fisheries sector. T. Faiyaz and A. Al Arif (2022) examined measures for regional cooperation to combat IUU fishing in the Bay of Bengal. The authors stressed the importance of enhancing international interaction among the region's states, implementing modern monitoring technologies, and harmonising legal norms to improve the effectiveness of control.

The existing scholarly works do not adequately cover the procedural aspects of the legal status of subjects in proceedings concerning violations of fisheries protection legislation, particularly in the context of the administrative process. Specifically, there is no comprehensive assessment of the rights and obligations of participants, nor of the interaction between the bodies that carry out control and investigation of violations. There is also a need for an analysis of the legal status of persons conducting fisheries protection raids and the procedural aspects of their interaction, which is key to understanding the effectiveness of the current legal regulation.

The aim of the study was to analyse the legal regulation of the administrative procedural status of subjects in proceedings concerning violations of fisheries protection legislation within the context of ensuring ecological safety and observing legal guarantees. To achieve this aim, the following objectives were set: to characterise the legal grounds for administrative proceedings in cases of violations of fisheries protection legislation and the range of its subjects; to investigate the procedural rights and obligations of the subjects of administrative proceedings; to assess the compliance of the current regulation with international and European standards of ecological law enforcement.

Materials and Methods

The study was conducted using special legal methods, which ensured a comprehensive approach to analysing the legal status of state bodies authorised to exercise control in the field of fisheries and other entities involved in relevant proceedings. The main research method was comparative legal analysis, which was used to assess the compliance of Ukrainian national legislation with international standards in the field of aquatic biological resources protection and administrative proceedings. Within the framework of this method, a comparison was made between the

provisions of Ukrainian legislative acts, such as Law of Ukraine No. 3677-VI "On Fisheries, Industrial Fishing and Protection of Aquatic Biological Resources" (2011), Law of Ukraine No. 5293-VI "On Aquaculture" (2012), Law of Ukraine No. 1264-XII "On Environmental Protection" (1991), Law of Ukraine No. 2894-III (2001), Regulations on the State Agency for Land Reclamation and Fisheries of Ukraine (2015) with European and international regulatory acts, in particular Regulation of the European Council No. 1005/2008 (2008), Aarhus Convention (1998), Code of Conduct for Responsible Fisheries (1995), United Nations Convention on the Law of the Sea (1994), Agreement on the Implementation of International Conservation and Management Measures for Fishery Resources (1993), Convention on Biological Diversity (1992). The analysis pays particular attention to the principles of procedural guarantees in administrative proceedings, which, although not directly compared, were compared with the provisions of the European Convention on Human Rights (1950) in terms of access to justice and fair trial, which is relevant in the context of assessing the compliance of administrative procedures with international standards.

A formal legal method was used to analyse in detail the structure and content of key regulatory and legal acts governing administrative proceedings in cases of violations of fisheries legislation. The main documents for analysis were the Code of Ukraine on Administrative Offences (1984), the Criminal Code of Ukraine (2001), Law of Ukraine No. 580-VIII "On the National Police" (2015), Order of the Ministry of Agrarian Policy and Food of Ukraine No. 512 "On Approval of the Procedure for Conducting Fish Protection Raids" (2018), Resolution of the Cabinet of Ministers of Ukraine No. 895 "On Approval of the Regulations on the State Agency of Ukraine for the Development of Land Reclamation, Fisheries and Food Programs" (2015), Instructions for the preparation of

materials on administrative offences by fisheries protection authorities, approved by Order of the Ministry of Agrarian Policy and Food of Ukraine No. 101 (2003), as well as Strategy for the Development of Fisheries until 2030 (2023).

The case study method was used to analyse court decisions illustrating the practical aspects of the application of administrative law in the field of fisheries. In particular, the following decisions were considered: Judgement of the Commercial Court of Odessa Region in Case No. 916/2571/23 (2023) on the removal of obstacles to the use and disposal of property, Judgement of the Belyaevsky District Court of Odessa Region No. 123737886 (2024) in a case concerning illegal crayfish fishing. The analysis of these decisions made it possible to assess law enforcement practice in cases of violations of fisheries protection legislation and the specifics of interaction between the relevant state bodies, as well as the correlation between national regulation and international human rights standards, as evidenced by the practice of the ECHR in the case of "Yaşar v. Romania" (2020). In addition, a legal modelling method was used to assess possible scenarios for improving administrative proceedings in cases of violations of fisheries protection legislation and to identify ways to increase the effectiveness of control in this area.

Results

Legal basis for administrative proceedings in cases of violations of fisheries protection legislation. Fisheries management in Ukraine was based on a comprehensive approach enshrined in a number of specific and general regulatory acts. The main one is Law of Ukraine No. 3677-VI (2011), which defines the legal basis for fisheries management, including the procedure for issuing permits for the special use of aquatic biological resources, the rules for industrial fishing, and establishes the powers of regulatory

authorities, mechanisms for state supervision and liability for violations in this area. The law pays particular attention to the division of powers between central and local executive authorities, as well as the procedure for state accounting of aquatic biological resources. The basic legislation is supplemented by Law of Ukraine No. 5293-VI (2012), which aims to regulate activities related to the cultivation of aquatic organisms in artificially created conditions. It regulates issues of state support for the industry, establishes requirements for aquaculture operators, product certification mechanisms, and environmental restrictions on environmental impact.

Law of Ukraine No. 1264-XII (1991) forms the general regulatory framework for environmental safety, including the principles of sustainable use of natural resources, including aquatic biological resources. This law provides the legal basis for the environmental assessment of fisheries activities and defines environmental requirements for economic activities in coastal and inland waters. In turn, Law of Ukraine No. 2894-III (2001) covers aspects of the protection of aquatic fauna as part of the animal world, including the regulation of species listed in the Red Book of Ukraine, restrictions on the catch, transport and storage of aquatic living resources.

Thus, the system of regulatory control of fisheries in Ukraine is multi-level: it covers specialised regulations on industrial fishing and aquaculture, as well as general provisions of environmental and nature conservation legislation aimed at ensuring the sustainable use of water resources and the conservation of biodiversity. A significant role in the regulation of fisheries in Ukraine was played by the regulatory acts of the Cabinet of Ministers of Ukraine, among which the key one is Resolution of the Cabinet of Ministers of Ukraine No. 895 (2015), which approved the Regulations on the State Agency for Land Reclamation and Fisheries of Ukraine. This act defines

the powers of the agency, in particular with regard to state management in the field of industrial fisheries, protection, rational use and reproduction of aquatic biological resources. However, this provision does not contain clear mechanisms for ensuring food security by stimulating the development of aquaculture, which is critical in the context of current challenges. In particular, the procedures for state support of aquaculture entities are not specified, and there is no link to state food reserve programmes, which creates a regulatory gap in the supply of fish products in times of crisis. At the same time, Regulation of the European Council No. 1224/2009 (2009) establishes a comprehensive system for monitoring compliance with the rules of the common fisheries policy, including electronic reporting systems, inspection measures and a centralised database. In Ukraine, such mechanisms are either not applied or remain at the pilot project stage. Regulation of the European Council No. 1005/2008 (2008), aimed at combating illegal, unreported and unregulated fishing, provides for mandatory certification of the origin of catches, control of imports of fish products and international cooperation, which is also lacking in Ukrainian legislation. In addition, international documents such as the Code of Conduct for Responsible Fisheries (1995), the Aarhus Convention (1998), the United Nations Convention on the Law of the Sea (1994), the Convention on Biological Diversity (1992), and the Agreement on the Implementation of International Conservation and Management Measures for Fishery Resources (1993) contain principles of transparency, public participation, and scientific basis for resource management, but these provisions are implemented only fragmentarily in the Ukrainian regulatory framework.

Regulatory acts of the Cabinet of Ministers of Ukraine play a significant role in regulating the fishing industry. In particular, Resolution of the Cabinet of Ministers of Ukraine No. 895 (2015),

which defines the functions of this body in the field of regulating industrial fishing, restoring aquatic biological resources and combating illegal fishing. At the same time, there are still significant gaps in the regulatory framework, particularly in terms of ensuring food security through the development of fisheries.

Current challenges in the fisheries sector are also linked to the impact of martial law in Ukraine, which complicates the control of aquatic biological resources and creates additional risks for illegal fishing. According to A.I. Ripenko and O.I. Nastina (2022), one of the key problems remains the high level of shadowing in the industry, as according to various estimates, more than 70% of fish catches are not accounted for. A problematic aspect in the field of aquatic biological resource protection remains the violation of the boundaries between recreational and commercial fishing, in particular the illegal sale of caught fish by individuals, which complicates the effective control of the use of aquatic biological resources. Additional problems are created by the low level of digitalisation in the industry. The lack of product traceability mechanisms used in the EU (e.g. electronic catch registration system, fishing logbook, accompanying documents for fish prod-

ucts (Catch Certification Scheme), as well as an integrated system for monitoring the movement and circulation of products) is one of the factors hindering Ukraine's integration into the European fish products market. The low level of legal support for aquaculture also remains a problem: the lack of effective state control mechanisms, in particular mandatory state registration of aquaculture facilities, systematic checks of compliance with technological requirements and a single register of producers, makes it impossible to obtain reliable data on the state of the industry and complicates strategic planning.

The significant number of offences in the field of fisheries protection requires clear classification for effective law enforcement and the development of preventive measures. Analysing the current legislation, it is possible to identify the main categories of such violations, which differ in nature, level of public danger and legal consequences. These include illegal fishing, violations of fishing rules, pollution of water bodies, violations of the use of aquatic living resources, and illegal trafficking of fishing gear. Table 1 reflects the key characteristics of these offences, the regulatory framework for their regulation, and their consequences.

Table 1. Types of offences in the field of fisheries protection

Type of offence	Content of the violation	Normative-legal regulation	Consequences
Illegal fishing	Violation of quotas, fishing during prohibited periods or in prohibited areas, use of prohibited fishing gear	Art. 85, 88-1 Code of Ukraine on Administrative Offenses (1984); Art. 249 Criminal Code of Ukraine (2001)	Causes damage to fish stocks, may result in administrative or criminal liability
Violation of fishing regulations	Use of explosives, poisonous substances, electric fishing gear, and other prohibited fishing methods	Art. 85 Code of Ukraine on Administrative Offenses (1984)	Destroys the ecosystem of water bodies, results in administrative liability
Pollution of water bodies	Discharge of waste, use of pesticides and other substances that cause the death of aquatic biological resources	Art. 59, 60 Law of Ukraine No. 1264-XII (1991)	Leads to the degradation of water resources, death of fish and other biological resources
Illegal trafficking of fishing gear	Manufacture, sale, transport, and storage of prohibited fishing gear (nets, electric fishing gear, etc.)	Art. 85-1 Code of Ukraine on Administrative Offenses (1984)	Contributes to the spread of illegal fishing, causes damage to aquatic biological resources

Source: developed by the author

A comparison of these categories shows that most offences have not only environmental but also economic and social dimensions. Illegal fishing and violations of fishing regulations directly threaten the conservation of fish stocks, which in turn can lead to a significant decline in the population of valuable fish species and cause economic damage to the fishing industry. At the same time, pollution of water bodies is a systemic factor that causes not only a reduction in biodiversity, but also a deterioration in the quality of water resources in general, which affects the health of the population (Bennett, 2019).

Particular attention should be paid to violations in the use of aquatic living resources and the illegal circulation of fishing gear, as these actions are often part of large-scale illegal schemes that require a comprehensive approach to their detection and cessation. An important aspect of law enforcement is the distinction between administrative and criminal liability depending on the damage caused, as provided for by current legislation (Nakamura, 2022). Thus, a systematic analysis of offences in the field of fisheries protection allows not only to identify the main problems in law enforcement, but also to form strategic directions for strengthening control and preventing environmental threats. Thus, offences in the field of fisheries protection are diverse in nature and legal consequences. The need to improve law enforcement practices in this area remains relevant due to the increased anthropogenic pressure on aquatic ecosystems and the need to adapt national legislation to European standards.

Administrative and procedural status of parties to proceedings. The administrative and procedural status of parties to proceedings in cases of violations of fisheries protection legislation is determined by their rights, obligations and procedural functions within the framework of administrative proceedings. For clear legal regulation of these issues, it is important to classify such

parties according to their roles and powers. Parties to proceedings in cases of violations of fisheries protection legislation are divided into three main groups: state authorities, persons subject to liability, and other participants in the administrative process. The first group includes authorities authorised to monitor compliance with fisheries protection legislation, record violations and consider relevant cases.

The main body exercising state control in the field of fisheries is the State Agency of Ukraine for Melioration and Fisheries and its territorial divisions. They have the right to draw up reports on administrative offences and impose appropriate penalties in accordance with the Code of Ukraine on Administrative Offences (1984) (Articles 85, 86-1, 88-1). In addition to the State Agency, the bodies with powers in the field of fisheries protection also include the National Police, the State Environmental Inspection, and, in some cases, local government bodies. Interaction between these structures is regulated by current legislation, in particular Law of Ukraine No. 580-VIII (2015), which provides for cooperation between the police and other state and local government bodies. Similar provisions are contained in the Regulations on the State Agency for Fisheries, approved by Resolution of the Cabinet of Ministers of Ukraine No. 895 "On Approval of the Regulations on the State Agency of Ukraine for the Development of Land Reclamation, Fisheries and Food Programs" (2015), which defines the mechanism for cooperation between the agency and state and public structures.

One of the key measures in the field of fisheries protection is fisheries protection raids, which are carried out in accordance with Order of the Ministry of Agrarian Policy and Food of Ukraine No. 512 (2018). This document regulates the procedure for conducting raids by officials of the State Fisheries Agency and its territorial bodies, and also defines the participants in these activities,

which may include police officers, public fisheries protection inspectors, environmental protection inspectors and other representatives of state bodies and local self-government. In accordance with Article 27 of Law of Ukraine No. 3677-VI (2011), fisheries protection authorities carry out fisheries protection raids aimed at preventing, detecting and stopping violations of fishing rules, as well as controlling the use and reproduction of aquatic biological resources in inland water bodies, territorial waters, internal sea waters and the exclusive (maritime) economic zone of Ukraine.

The legal powers of fisheries protection officials are enshrined in the Law of Ukraine "On Fisheries, Industrial Fishing and the Protection of Aquatic Biological Resources" and cover a number of important aspects aimed at ensuring control over compliance with the rules for the use of aquatic biological resources and preventing violations in this area. In particular, officials of fisheries protection agencies are authorised to draw up reports on administrative offences and to consider relevant administrative cases, which allows them to respond promptly to illegal fishing or other violations of environmental legislation. In addition, they have the right to seize illegally obtained aquatic biological resources along with the fishing gear used to commit the offence. This is an important mechanism for preventing the further use of prohibited fishing methods and

preserving aquatic ecosystems. If it is impossible to identify the offender directly at the scene of the offence, officials of the fisheries protection authorities may deliver the offender to law enforcement agencies for identification and appropriate legal action.

The jurisdictional powers of fisheries protection authorities are also defined by the Code of Ukraine on Administrative Offences, which regulates the procedure for recording violations and imposing sanctions. At the same time, the Instructions for the preparation of materials on administrative offences by fisheries protection authorities, approved by Order of the Ministry of Agrarian Policy and Food of Ukraine No. 101 (2003), detail the procedure for preparing the relevant materials.

The second group consists of persons who are held liable for violations of fisheries protection legislation. According to Article 9 of the Code of Ukraine on Administrative Offences (1984), citizens and officials are subject to administrative liability if their actions violate established rules in the field of fisheries, the use of aquatic living resources or the protection of the natural environment. It is important to note the distinction between administrative and criminal liability, which depends on the extent of the damage caused, the repetition of the offence and the fishing methods used. For a detailed analysis of these aspects, a summary comparative overview is provided in Table 2.

Table 2. Procedural rights and obligations of persons subject to liability in cases of violation of fisheries protection legislation

Criterion	Administrative liability	Criminal liability
Person subject to liability	Violators of fishing regulations who have committed administrative offences (minor violations).	A person who has committed a gross violation that constitutes a criminal offence (e.g., illegal fishing on a significant scale).
Rights of the person	Review of case materials. Provision of explanations and evidence. Use of legal assistance. Appealing decisions. Notification of the substance of the charges.	Access to the materials of the pre-trial investigation. The right to the presumption of innocence. The right to a fair trial.

Table 2. Continued

Criterion	Administrative liability	Criminal liability
Obligations of the person	Compliance with the lawful requirements of fisheries protection officials. Provision of necessary information. Execution of the imposed penalty within the established time limit.	Compliance with procedural law. Enforcement of court decisions. Compensation for damages if caused.
Sanctions	Fines. Confiscation of illegally caught biological resources and fishing gear.	Fines. Confiscation of fishing gear. Imprisonment (for serious offences).
Appealing decisions	Submission of a complaint to a higher authority or administrative court.	Appeal or cassation to a higher court.

Source: developed by the author

Analysing the procedural rights and obligations of persons brought to justice for violating fisheries protection legislation, as presented in the table, several important trends can be identified. First, there is a significant difference in the procedural status of persons depending on the type of liability. Administrative proceedings are focused on a simplified procedure aimed at quickly establishing the fact of the offence and applying the appropriate penalty. At the same time, criminal proceedings relating to gross violations provide individuals with a wider range of guarantees, as they entail more severe consequences. Secondly, an important aspect is the mandatory observance of the principle of presumption of innocence in criminal cases, which distinguishes them from administrative offences, where the concept of objective liability applies. This confirms the need for a clear evidence base for criminal prosecution, including expert conclusions and assessment of the damage caused. Thirdly, the right to legal assistance plays a special role in the mechanism of bringing to justice. In criminal cases, it is implemented in the form of mandatory participation of a lawyer, while in administrative proceedings, a person has the opportunity, but is not obliged, to use such assistance. This may affect the level of protection of the offender's rights, especially in cases where it is necessary to correctly assess the evidence or appeal against the decisions of the fisheries protection authorities.

Fourthly, the institution of appeal is a key mechanism for protecting the rights of a person subject to liability. Its effectiveness depends on the accessibility and independence of judicial and administrative procedures. While in administrative cases it is possible to appeal within the executive authorities, in criminal cases the decision is reviewed exclusively in court, which provides an additional level of legal control. Thus, an analysis of the procedural rights and obligations of persons brought to justice in cases of violations of fisheries protection legislation indicates the need for a clear distinction between administrative and criminal procedures, ensuring adequate human rights guarantees and compliance with the principle of legal certainty.

The third group consists of other participants in administrative proceedings, in particular witnesses, experts, interpreters, victims and representatives. Witnesses may be called upon to confirm the facts of the offence, and experts may be called upon to conduct studies on the damage caused to aquatic biological resources or ecological systems in general. An important role is played by representatives of legal entities or lawyers who ensure the protection of the rights of persons subject to liability in accordance with Article 268 of the Code of Ukraine on Administrative Offences (1984). Thus, the administrative procedural status of the subjects of the proceedings determines their role in the law enforcement

mechanism and affects the effectiveness of both control and protective functions in the field of fisheries legislation.

Analysis of the effectiveness of law enforcement in the field of fisheries protection.

Analysis of judicial practice in the field of fisheries protection is a key element in assessing the effectiveness of law enforcement and identifying existing problems in the mechanisms of control and accountability for violations of environmental legislation. The decisions of the courts of Ukraine and the European Union are of particular importance, as they demonstrate differences in approaches to the interpretation of norms, the severity of sanctions and mechanisms for bringing offenders to justice. The case concerning illegal crayfish fishing on the Turunchuk River (Judgement of the Belyaevsky District Court of Odessa Region No. 123737886, 2024), which is a tributary of the Dniester, is important for assessing the effectiveness of law enforcement in the field of fisheries protection in Ukraine. This case demonstrates the peculiarities of the response of law enforcement agencies and the judicial system to violations of environmental legislation, and also allows for an assessment of the level of sanctions applied for gross violations of fishing rules. The violation occurred on 4 October 2024 during a fisheries protection raid carried out by a state inspection team consisting of inspectors from the Odessa Fisheries Protection Patrol and water police officers. It was established that the citizen used a prohibited fishing gear – a “trاندada”, which is a direct violation of the fishing rules defined by the Rules of Amateur and Sport Fishing in Ukraine. According to Article 85, Part 4 of the Code of Ukraine on Administrative Offences (1984), the prohibited catch of aquatic biological resources using prohibited fishing gear is classified as a gross violation of fishing rules, which entails administrative liability. At the same time, in this case, there are grounds for considering

criminal liability under Article 249 of the Criminal Code of Ukraine (2001) (illegal engagement in fishing, hunting or other water extraction industries) if significant damage or repeated violations are proven. The amount of damage caused by the illegal catch of 69 crayfish (1.2 kg) is estimated at 229,908 hryvnia, which indicates significant material damage to the region’s fishing industry. This underscores the importance of adequate law enforcement and the need for severe sanctions against violators. From the point of view of judicial practice, this case may set a precedent for increasing liability for similar offences, which will help prevent similar cases in the future.

In European Union countries, the fight against illegal fishing is regulated at both the national and supranational levels. For example, the EU Marine Strategy (2008) has strict mechanisms in place to monitor compliance with fishing quotas and the use of permitted fishing gear. In France and Germany, the use of prohibited fishing gear can be classified as a criminal offence, resulting in the confiscation of fishing gear and vehicles and significant fines (Chen *et al.*, 2023). Unlike Ukraine, where illegal crayfish fishing is often dealt with through administrative proceedings, in Spain and Portugal similar offences may result in criminal liability with the possibility of imprisonment in cases of significant damage to aquatic ecosystems (Oral, 2020).

The consideration of Case No. 916/2571/23 (2023), related to the violation by Danube Aquaresource LTD of the conditions for fishing in Lake Kahul, is indicative in the context of assessing the effectiveness of law enforcement in the field of aquatic biological resources protection in Ukraine. This case illustrates the response of judicial and supervisory authorities to non-compliance with environmental requirements and allows to determine the effectiveness of sanctions against violators of environmental legislation. In 2019, Danube Aquaresource LTD received

approval to carry out fishery activities on Lake Kahul, covering an area of 8,500 hectares, located in the Izmail district of the Odesa region, in accordance with the Special Commercial Fishery Regime (SCFR) approved by the State Fisheries Agency of Ukraine. This regime is valid from 2019 to 2028. According to information from the State Agency for Land Reclamation and Fisheries in the Odesa region, Danube Aquaresource LTD did not carry out any fish farming and land reclamation activities between 2019 and 2022, such as installing spawning nests (except for 2020, when 250 were installed), improving spawning grounds and clearing waterfall channels and streams. In addition, since 2021, the company has ceased work on the repopulation of aquatic biological resources. The deputy head of the Odesa Regional Prosecutor's Office filed a lawsuit with the Odesa Regional Commercial Court on behalf of the state, represented by the Odesa Regional State Administration, to remove obstacles to the use and disposal of Lake Kahul. The Commercial Court of the Odesa Region upheld the claim, ordering Danube Aquaresource LTD to cease using Lake Kahul and return it to the state, represented by the Odesa Regional State Administration. The court concluded that the company had failed to comply with the conditions of the SCFR regime, as confirmed by the evidence provided.

This case is indicative of the effectiveness of law enforcement in the field of fisheries protection in Ukraine. It demonstrates that failure by business entities to comply with the conditions for the special use of aquatic biological resources may lead to judicial intervention and termination of the right to use water bodies. At the same time, the process of enforcing court decisions may encounter difficulties, in particular with regard to the interpretation and implementation of the operative parts of decisions.

Similar legal approaches can be seen in international court practice. For example, in the

case of "Yaşar v. Romania" (2020) concerning a complaint of unlawful confiscation of property, the court found no violation of Article 1 (Protection of property) of Protocol 1 to the European Convention on Human Rights (1950). In this case, the applicant, who lives in Turkey, was the owner of a vessel used for illegal fishing in the Black Sea. The Romanian courts ordered the confiscation of the vessel, despite the applicant's arguments that he was unaware of the crew's illegal activities. The European Court of Human Rights (ECHR) found that the confiscation measure was proportionate to the seriousness of the offence and the potential damage to fish stocks, and did not impose an excessive burden on the applicant (Husein & Aziz, 2020). Thus, as in the Case No. 916/2571/23 (2023) concerning Lake Kahul in Ukraine, and in "Yaşar v. Romania" (2020), the courts applied the principles of protecting public interests and natural resources, even when the property owners denied their involvement in the violations (Figueroa, 2021). This indicates a general trend towards tighter control over the use of natural resources and more effective judicial protection of the state's environmental interests.

Prospects for improving legal regulation.

The prospects for regulating Ukraine's fisheries sector are a key area of state policy aimed at improving management efficiency, conserving aquatic biological resources and ensuring food security. Given the challenges, including high import dependency, declining industrial catches, lack of transparent mechanisms for access to water bodies, and illegal fishing, the state is initiating comprehensive measures to reform the industry. One of the main steps was the approval of the Strategy for the Development of Fisheries until 2030 (2023), which provides for the creation of favourable conditions for increasing fish production, improving the bioproductivity of water bodies and reducing dependence on imports.

An important aspect of the reform is to ensure the sustainable development of fisheries in the context of climate change and the conservation of natural aquatic biological resources. The priority task of state policy is to create favourable conditions for the investment development of the industry, including the modernisation of infrastructure and the expansion of production from fish and other aquatic biological resources in accordance with the principles of environmental sustainability. In this context, an electronic auction mechanism has been introduced to ensure the transparent distribution of rights for industrial fishing of aquatic biological resources. The introduction of digital technologies in the fishing industry contributes to the automation of processes, reduction of administrative burdens and minimisation of corruption risks. In particular, Law of Ukraine No. 2989-IX (2023) provides for the simplification of market access procedures through electronic auctions, the digitisation of the issuance of permits, and the creation of a mechanism for the traceability of aquatic biological resources, which will guarantee their safe consumption.

An important area of reform is attracting investment in the development of the fishing industry. The implementation of relevant legislative initiatives will create a new investment environment conducive to the development of the fishing business, which will also create additional opportunities for the growth of Ukraine's economy as a whole. Institutional strengthening of the industry requires improving the tax burden on aquaculture entities, which will contribute to production growth and ensure the stable operation of enterprises.

The fight against illegal, unreported and unregulated fishing remains a pressing task for state policy. To this end, it is necessary to comprehensively strengthen the mechanisms for controlling the origin of aquatic biological resources, which will reduce the volume of illegal catches, increase the level of responsibility of economic entities and

introduce an effective system of product traceability at all stages of its circulation. One of the key areas of reform in this area is the introduction of digital technologies. In particular, it is worth considering the possibility of introducing electronic systems for tracking fish products based on blockchain technologies, which will allow the creation of a reliable and transparent database on the catch, transport and sale of fish products. This practice is already being successfully applied in the European Union, in particular in Denmark and Spain. For example, in accordance with the provisions of Regulation of the European Council No. 1224/2009 (2009), Denmark has introduced an e-logbook system that records catch data in real time and transmits it to the National Fisheries Monitoring Centre. This allows for rapid monitoring of quota compliance and detection of overfishing. Spain uses the Sistema de Control de la Flota Pesquera system, which provides electronic recording of fishing operations, including landing points and vessel routes, which significantly increases the effectiveness of combating illegal, unreported and unregulated (IUU) fishing. Another important element is the introduction of mandatory electronic certification of the origin of aquatic biological resources, which will meet European requirements and facilitate access for Ukrainian products to EU markets.

With regard to improving the legal regulation of recreational and sport fishing, it is necessary to establish clear rules for such activities, in particular, to determine permissible catch volumes, a list of permitted fishing gear and seasonal restrictions to preserve aquatic biological resources populations. An important aspect is the development of an integrated model for managing recreational fishing that takes into account both environmental and economic factors. EU countries such as Finland and Sweden actively use licensing systems that allow to regulate the flow of fishermen on water bodies and direct the funds collected

to the restoration of fish stocks. For example, Finland has introduced a single national fishing licence system (National Fisheries Management Fee), which all citizens aged 18 to 64 are required to pay when fishing with tackle. These funds are centrally allocated to programmes for the restoration of natural fish populations, restocking of water bodies and environmental protection. Sweden has a similar system, in particular through the so-called fishing card systems (fiskekort), which are sold for both individual water bodies and regions. Revenues from these cards are directed towards local fisheries management, monitoring of biological resources and support for the sustainable use of aquatic ecosystems (Regulation of the European Council No. 1005/2008, 2008).

In addition, a promising direction is the development of sustainable fishing through the introduction of environmental certification programmes, for example, according to the standards of the Marine Stewardship Council (MSC). This will stimulate the use of environmentally friendly fishing methods, contribute to the conservation of aquatic ecosystems and create additional competitive advantages for Ukrainian producers in the international market. In general, the improvement of legal regulation in the field of fisheries should be based on a combination of modern technological solutions, harmonisation of legislation with European standards and the creation of effective control mechanisms, which will ensure the sustainable development of the industry in the long term.

Discussion

An analysis of the legal regulation of fisheries in Ukraine revealed a number of shortcomings that affected the effectiveness of control over the catch of aquatic biological resources and compliance with fisheries legislation. A comparison of the results obtained with international studies revealed both common trends and specific problems of the

Ukrainian legal environment in this area. In particular, a study by K.N. Heidrich *et al.* (2023) on the regulation of fishing in the Indian Ocean confirmed the importance of accurate fish catch accounting and the need to implement traceability mechanisms, which was one of the key challenges for Ukraine. The low level of digitalisation and the predominant use of paper documentation made it difficult to control catches and contributed to abuse.

The problem of illegal fishing remains relevant for many countries, confirming the findings of C.J. Donlan *et al.* (2020), who found that in some regions of the world up to 30% of fish catches were illegal. In the case of Ukraine, it has been established that the effectiveness of law enforcement in the field of fisheries legislation largely depended on the level of interagency coordination between state authorities, in particular between the State Agency for Land Reclamation and Fisheries of Ukraine, the National Police, environmental control authorities and the prosecutor's office. In addition, the clarity of the legal classification of offences remained an important factor, as it determines the choice of procedure for bringing offenders to liability – administrative or criminal – and affects the possibility of securing evidence and subsequent court proceedings. Similar challenges were noted in a study by M. Carvalho *et al.* (2023), which emphasised that the lack of a systematic approach to combating illegal fishing threatened biodiversity and the economic stability of the industry.

An analysis of offences in the field of fisheries protection revealed the need for a clearer distinction between administrative and criminal liability depending on the level of damage caused to ecosystems. This was in line with the conclusions of C.J. Donlan *et al.* (2020), who emphasised the importance of grading sanctions according to the severity of the offences. The lack of effective state control mechanisms and the low level of legal protection for aquaculture remained

problems that complicated Ukraine's integration into the European fish market.

The impact of martial law on the fisheries sector played an important role. The study showed that military operations complicate the control of water resource use and create additional risks for illegal fishing. Similar challenges were observed in countries with unstable security situations, particularly in Somalia, the Democratic Republic of Congo and Venezuela, where weak institutional control over the fishing industry led to critical losses of aquatic biological resources due to widespread illegal, unreported and unregulated (IUU) fishing. This was confirmed in the work of M. Carvalho *et al.* (2023), which analyses the consequences of the lack of effective monitoring and enforcement mechanisms in these countries. The results of the study confirmed the importance of clearly defining the administrative and procedural status of parties to proceedings in cases of violations of fisheries legislation. It was found that effective legal regulation of this area requires the classification of parties to proceedings according to their functions, which was consistent with the approaches discussed in the current scientific literature. An analysis of Ukrainian legislation showed that the national fisheries control system has a sufficient regulatory framework but needs to improve mechanisms for interagency cooperation, which is consistent with the conclusions of studies on international fisheries law.

It has been established that the jurisdictional powers of fisheries protection authorities, in particular the State Fisheries Agency, the police and the environmental inspectorate, allow for control over compliance with fisheries protection legislation, but there are gaps in the practical implementation of these powers. In particular, the problem of insufficient coordination between state structures is similar to the difficulties observed in international fisheries protection mechanisms. As

noted in the work of M. Mackay *et al.* (2020), law enforcement in the field of fisheries protection often faces challenges related to limited resources and the complexity of proving offences. Similar problems are characteristic of Ukraine, as evidenced by the difficulties in documenting administrative offences and collecting evidence.

A significant difference has been identified in the procedural status of persons brought to liability, which manifests itself in differences between administrative and criminal proceedings. This is in line with general trends in international law, where administrative measures are applied for minor offences and criminal measures for serious cases of illegal fishing, as highlighted in the work of J.N. Nakamura (2023). In addition, the need to ensure compliance with the principle of presumption of innocence in criminal proceedings, which is consistent with international legal standards, has been confirmed. At the same time, as T. Fajardo (2022) points out, modern approaches to the criminalisation of illegal fishing require flexible application, as overly severe penalties can have negative socio-economic consequences for fishing communities.

M. Mackay *et al.* (2020) noted that the effectiveness of fisheries protection measures largely depends on the involvement of the public and independent experts, which is also confirmed by the study. The experience of international jurisdictions indicates the need for active use of scientific methods to assess damage to aquatic biological resources, which can contribute to greater objectivity in the consideration of cases involving violations of fisheries protection legislation.

An analysis of judicial practice in the field of fisheries protection has revealed key differences in approaches to law enforcement between Ukraine and European Union countries. In particular, Ukraine tends to focus on administrative liability, even in cases involving significant material damage. In contrast, in EU countries, such

offences are more often classified as criminal, which is accompanied by stricter sanctions and broader opportunities for compensation for damage. These differences indicate the need to strengthen a comprehensive approach to the protection of aquatic biological resources in national law enforcement practice. At the same time, M. Rosello (2022) emphasised that in EU countries, similar actions are often classified as criminal offences, which entail more severe sanctions, including confiscation of property and imprisonment.

The establishment of a violation committed by a Ukrainian citizen using the prohibited fishing gear “trandada” made it possible to assess the effectiveness of the response of law enforcement agencies and the judicial system to such cases. At the same time, the absence of criminal prosecution in this case, despite the significant amount of damage caused, indicates the need to improve mechanisms for bringing offenders to liability. In particular, a study by A.A. Stefanus and J.A. Vervaele (2021) pointed out that the effectiveness of combating illegal fishing depends not only on the severity of sanctions, but also on their inevitability, which is a much more effective deterrent in countries with a high level of law enforcement.

A comparison of judicial practice in Ukraine and EU countries using the example of the Danube Aquaresource LTD case demonstrates differences in the mechanisms for controlling fishing activities. Ukrainian courts imposed a ban on the use of water resources as a sanction for systematic violations of the conditions for fishing in Lake Kahul. A similar approach can be seen in the practice of the ECHR in the case of “Yaşar v. Romania” (2020), where the court recognised the confiscation of property used for illegal fishing as lawful. The study by A.M. Song *et al.* (2020) notes that the ECHR justified its decision in this case by the need to ensure the sustainable use of natural resources. Thus, the introduction of tougher sanctions for violations of environmental legisla-

tion in Ukraine is in line with general European trends in judicial practice.

The results of the study also confirm the importance of strengthening control and international cooperation in the field of fisheries protection. As noted by J. Vince *et al.* (2021), effectively addressing the problem of illegal fishing requires the introduction of unified sanctions and the exchange of information between states. In this context, applying the EU’s experience, in particular the mechanisms of the Common Fisheries Policy, could help to improve the effectiveness of Ukrainian law enforcement.

Overall, an analysis of Ukrainian and EU judicial practice in the field of fisheries control shows that Ukrainian approaches are gradually converging with European standards. The application of sanctions such as deprivation of the right to use water bodies and confiscation of property is consistent with the decisions of the ECHR and international judicial practice, confirming the general trend towards strengthening measures of responsibility for violations of environmental legislation. In this context, further improvement of law enforcement mechanisms will contribute to ensuring effective regulation of fisheries activities in accordance with European environmental standards.

Conclusions

The regulation of fisheries in Ukraine was based on a set of legislative and regulatory acts that define the legal regimes for the use of aquatic biological resources, mechanisms of state control, and liability for offences. Despite the existence of a comprehensive regulatory framework, there remain significant gaps, particularly in the areas of food security, digitalisation and integration with the European market. The impact of martial law exacerbates the problems of illegal fishing and the shadow economy in the sector, which requires stronger state control.

The administrative and procedural status of parties to proceedings in cases of violations of fisheries legislation is determined by their rights, obligations and procedural functions, which affect the effectiveness of law enforcement. The classification of these parties into state authorities, persons subject to liability and other participants in the proceedings makes it possible to clearly define their powers. Fisheries protection authorities, in particular the State Fisheries Agency, the National Police and the State Environmental Inspection, exercise control, record violations and impose sanctions. Persons subject to liability have certain procedural rights and obligations depending on the nature of the offence, as well as mechanisms for appealing decisions.

Other participants, such as witnesses, experts and lawyers, play an important role in ensuring the objectivity and legality of the administrative process. An analysis of the administrative and procedural status of the parties to the proceedings indicates the need for a clear distinction between administrative and criminal liability, compliance with the principle of legal certainty and the provision of adequate guarantees of the rights of persons involved in the proceedings. An analysis of judicial practice in the field of fisheries protection has revealed systemic features of national law enforcement, in particular the predominance of administrative liability and the limited use of instruments of influence, such as the confiscation of fishing gear or criminal prosecution. A comparative study with European Union practice indicates the need to strengthen the sanction mechanism, improve procedural procedures and take a tougher approach to countering violations, which should become an important benchmark for reforming Ukrainian legislation in this area.

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Improving the legal regulation of Ukraine's fisheries is a priority task of state policy aimed at improving management efficiency, conserving aquatic biological resources and ensuring food security. Key areas of reform include harmonising legislation with European standards, digitising processes, modernising industry infrastructure, and strengthening control mechanisms. The introduction of electronic auctions, digital product traceability systems, and electronic certification will help increase market transparency and reduce corruption risks. Attracting investment and creating a favourable tax environment will contribute to the growth of production and the development of aquaculture. Particular attention should be paid to combating illegal fishing and introducing environmental standards for sustainable fishing, which will ensure the long-term development of the industry and the competitiveness of Ukrainian fish products on the international market.

Further research in this area could focus on developing effective mechanisms for integrating digital technologies into the fishing industry, assessing the impact of environmental certification on the competitiveness of Ukrainian fish products, and studying best practices in fish resource management in EU countries for adaptation in Ukraine.

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Conflict of Interest

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Адміністративно-процесуальний статус суб'єктів провадження у справах про порушення рибоохоронного законодавства

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Анотація

Метою дослідження було вивчення особливостей процесуальної діяльності уповноважених органів у справах про порушення рибоохоронного законодавства процесуальної діяльності уповноважених органів у справах про порушення рибоохоронного законодавства. У процесі дослідження було використано системний підхід, за допомогою якого досліджено інституційну структуру органів рибоохорони у взаємозв'язку з Національною поліцією, судами та місцевими органами виконавчої влади. Результатом стало виявлення ключової ролі органів рибоохорони у фіксації правопорушень, а також визначення потреби в ефективнішій координації їх діяльності з іншими суб'єктами правозастосування. Встановлено, що взаємодія з Національною поліцією сприяла посиленню контролю за дотриманням законодавства, проте мала недоліки щодо оперативного обміну інформацією та належного документування фактів порушень. Було проаналізовано судові рішення, зокрема постанови 2023-2024 років, що ілюструють практичні проблеми правозастосування у сфері рибогосподарської діяльності. Аналіз засвідчив неоднорідність підходів судів до оцінки доказової бази у справах про порушення рибоохоронного законодавства, що негативно впливає на правову визначеність судових рішень. Судові органи виконували функцію перевірки правомірності дій адміністративних органів, однак практика застосування санкцій варіювалася залежно від конкретних обставин справи. Застосування порівняльно-правового методу дозволило зіставити український досвід із практикою країн ЄС, зокрема проаналізовано підхід ЄСПЛ у справі «Яшар проти Румунії» до конфіскації майна, використаного для незаконного промислу. Це дало змогу виявити спільні риси у застосуванні санкцій та обґрунтувати відповідність української практики європейським стандартам

Ключові слова: екологічні виклики; водні біоресурси; незаконний вилов; порушення правил рибальства; притягнення до відповідальності