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## Environmental rights protection in the European Court of Human Rights

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### *Abstract*

A relevant issue of environmental law in Ukraine is the total violation of environmental human rights and the lack of guarantees for their restoration, as well as the imperfection of the procedure for bringing violators to justice. Since Ukraine is an active participant in international relations in the field of environmental protection, and the basic principles of foreign policy are enshrined in the Constitution of Ukraine, an appeal to the European Court of Human Rights may be a way to defend the violated rights to a clean environment. The study aims to examine the issue of environmental rights protection in the European Court of Justice. The study is based on the following methods of scientific cognition: formal legal, dogmatic, and comparative legal. The author analyses international legislation in the field of environmental rights protection. The author notes that environmental problems are borderless, and therefore, their overcoming requires all

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countries to join forces and share experiences. As stated, the issue of environmental protection and environmental security is becoming geopolitical in nature, given the international cooperation in the field of environmental protection which began more than 100 years ago. The author shows the signs of ensuring the implementation of the environmental rights of citizens both in Ukraine and abroad. Examples of effective international cooperation in the field of environmental protection are given. The author analyses the judgments of the European Court of Human Rights in cases related to the subject matter of the study. It is determined that when making a decision, national courts should adhere to the criteria set out by the European Court of Human Rights; find out how a certain situation arose; whether the State knew and should have known that the danger or harmful effect would affect the applicant's private life; to what extent the applicant contributed to the deterioration of the situation and was able to remedy it without excessive costs. The practical significance of the study lies in the possibility of using its results in specialised classes, as well as in the preparation of scientific texts

**Keywords:** judicial protection; environmental disputes; environmental safety; environmental law proceedings; environmental interests; environmental legislation of foreign countries

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## Introduction

Environmental problems that potentially threaten the existence of all living things require the greatest attention in the modern world, as they directly affect human life. Any environmental problem is the result of human activity that gradually neglects the rules of behaviour, which destroys natural resources and environmental pollution. To avoid a global environmental catastrophe, efforts must be made to eliminate environmental threats. It is important not only to move towards overcoming environmental problems, but also to improve national legislation in this area, develop national and international programmes aimed at maintaining a safe environment for human life and health, and look for ways to restore lost resources and overcome the consequences of negative natural phenomena and processes.

Scholars in the field of environmental law and international law, as well as scholars of other branches of law, dedicated considerable efforts to the study of the international protection of environmental human rights. The issues of environmental

rights protection in the European Court of Human Rights (ECtHR) were studied by V. Ladychenko and L. Golovko (2017), V. Ladychenko *et al.* (2021) in the context of the implementation of the European Environmental Policy in Ukraine, where scholars thoroughly analyse the main characteristics of the protection of environmental rights by the ECtHR, and it should be noted that some of them are cited by other scholars, but research based on case law always needs to be revised due to new case law.

The studies are based on the analysis of the regulatory framework for household waste management with a focus on the aspects of waste management following the European Union legislation. Relevant studies are theoretical in nature and need to be strengthened by an analysis of international judicial practice (Khlabistova & Gulak, 2019; Zharovska, 2022).

L. Yakushenko (2012) analysed the experience of EU countries in terms of environmental policy formation. The author identifies ways of implementing environmental policy institutions

and ways of using environmental policy instruments. However, the absence of analysis of judicial practice in the field of environmental policy does not allow for study examples of the proposed instruments. The publication of U. Antoniuk (2018) focuses on establishing a correlation between the real impact of economic activity on the environment and the normatively declared guarantees of environmental human rights. Ye. Aliksieieva (2019) conducts research in the context of judicial protection of the rights of amalgamated territorial communities, and the details of the above studies form the basis on which the statements in this scientific article were proposed, but new ECtHR judgments are also subject to research to provide relevant conclusions and proposals in the field of environmental rights protection in the ECtHR.

I. Tolkachova and V. Kyrychenko (2020) examined the problems of human rights protection concerning environmental pollution and provided proposals for their solution. Using the methods of analysis, synthesis, comparative legal, sociological, logical, and dialectical methods, they identified specific problems of environmental human rights protection and provided proposals for overcoming them, as well as discussing the state of environmental human rights protection. In her research, A. Babich (2019) noted that a large number of applications of Ukrainian citizens to the ECtHR indicate that their rights to a safe environment for life and health are systematically violated. At the same time, the scholar raises the problem of applying the ECtHR judgments, since due to the complexity of environmental policy issues, the Court's role is primarily subsidiary.

V. Lykhohliad (2019) notes that the ECtHR considers the state to be the relevant entity that is obliged to organise an effective regulatory and legal regulation of relations in terms of environmental human rights protection. Thus, to ensure

an effective legislative regulator of these legal relations for the protection of environmental human rights, all states should analyse and study the ECtHR case law in this area. S. Shutiak *et al.* (2018) proposed to divide environmental cases of people considered by the ECtHR in the relevant area into those cases that affect life, environmental health, or certain owned objects of an environmentally hazardous nature; as well as those cases that involve access to certain information and/or dissemination of such information, public participation and access to justice in the relevant area. Scholars noted that states should improve their legislative framework in the field of environmental protection, environmental protection, etc. to address existing environmental problems, in particular through analysis and research of the existing ECtHR case law. The ECtHR case law could be an effective source of adjudication by national courts, in particular in the field of environmental relations, as it could help prevent violations of environmental rights and, accordingly, minimise the number of Ukrainians applying to the ECtHR for protection of their rights (Kovalenko, 2019; Surilova, 2022).

Given the problems faced in this area of research, there is a need to analyse international experience, in particular the case law of the European Court of Human Rights, which should be used to improve the national legal system in the field of environmental rights protection by adapting Ukrainian legislation to the provisions and principles of international law.

The study aims to investigate the issue of judicial protection of environmental human rights, in particular, the legislative framework of foreign countries and the ECtHR judgments.

### **Materials and Methods**

A comprehensive and complete study of the topic of the scientific article on the protection of

environmental rights in the ECtHR is possible by applying a set of methods of scientific cognition, in particular, analysis and synthesis, formal legal and dialectical. Analysis and synthesis made it possible to study the methods and practice of environmental rights protection by the European Court of Human Rights and also to identify the basic principles and principles of environmental human rights protection in the relevant instance. The formal legal method was used to study the legal acts and establish the links between the provisions of various legislative documents. The dialectical method was used to study the general characteristics to identify the main aspects of the ECtHR's case law.

To achieve the study goal, several legal acts, in particular, the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, November), and the ECtHR case law were used as the basis for the research. The ECtHR case-law includes the following rulings: the ECtHR judgement in the case of *Hrymkovska v. Ukraine* (2011, July) concerning the significant damage to the home, personal and family life of an individual due to the operation of the main road that was built near his home, which led to air pollution with exhaust gases, coal dust, noise pollution from the constant movement of trucks; the ECtHR judgement *Dubetska et al. and others v. Ukraine* (2011, February) concerning water pollution, soil subsidence and frequent flooding of the applicants' village as a result of the production activities of a plant and a coal mine; *Moreno Gomez v. Spain* (2004, November) concerning the exceeding of maximum noise standards in the settlement at night and the applicant's complaints about sleep disturbance due to noise from nearby pubs, bars and clubs; the ECtHR judgement in *Hutton and others v. the United Kingdom* (2003, July) concerning complaints about the quality of the environment

and human presence in it; about dangerous or destructive environmental conditions that could adversely affect human well-being; and about the failure to recognise the circumstances requested by the applicants as a violation of the right to privacy; the ECtHR judgement in *López Ostra v. Spain* (1994, December) on environmental pollution that may interfere with the right to respect for private and family life (and home) and affect people's well-being – prevent them from using their homes); the ECtHR judgement in *Giacomelli v. Italy* (2006, November) on pollution from a toxic waste processing plant located 30 metres from the applicant's house; the ECtHR judgement in *Tatar v. Romania* (2009, January) on the failure of state authorities to assess the risk of environmental disaster caused by coal; the ECtHR judgement in *Guerra and others v. Italy* (1998, February) on the failure to provide important information that would have helped the applicant to assess the risk to himself and his family if he continued to live near a chemical plant until the production of fertilisers was stopped; *Di Sarno and others v. Italy* (2012, January) concerning the unpleasant smell of a landfill near a prison that permeated prisoners' cells, given that this was the only place for prisoners to live and they could not choose another place to live; *Powell and Rayner v. the United Kingdom* (1990, February) concerning noise generated by aircraft, and an example where the ECtHR found no violation of Article 8 of the Convention and the rights of those living below the flight path, given the small number of people.

### **Results and Discussion**

Article 50 of the Constitution of Ukraine (1996, June) enshrines the right to a safe environment for life and health and to compensation for damage in case of violation of such a right, as well as access to information on the state of the environ-

ment, food safety and quality, etc. At the same time, Article 16 of the Constitution regulates the protection of environmental safety and ecological balance. It also addresses the consequences of the Chernobyl disaster, which had an impact on the entire planet, and the preservation of the Ukrainian gene pool, which is the responsibility of the state. Certain issues of environmental liability and judicial protection of rights were covered in the publication by V. Ladychenko *et al.* (2021). Furthermore, the issue of judicial protection of environmental rights requires a separate study, given that sufficient attention has been paid to the issue of studying case law. In particular, when studying the relevant issue, a conclusion was made that most European directives and regulations are formulated very specifically, with the establishment of parameters and criteria for the quality of environmental components and the responsibilities of actors. Instead, Ukrainian environmental legislation sets general requirements and defines principles and goals but does not specify ways to achieve them. Specific regulatory parameters can only be found in state standards, most of which are not publicly available. Ukrainian environmental legislation is declarative, does not contain conditions for achieving quantitative and qualitative results, and does not establish an effective control system. There are no penalties for failure to comply with the relevant requirements. The provisions of the Ukrainian legislation are insufficient to ensure the prevention and remediation of environmental damage and need to be improved. In particular, the Law "On Prevention and Elimination of Environmental Damage" and the State Concept for the Implementation of Human Rights to Quality and Safe Drinking Water should be adopted. To ensure the implementation of European environmental standards in Ukrainian legislation, the adoption of laws is not enough.

For implementation, it is also necessary to ensure that appropriate institutions and budgets are in place to enforce these laws and other regulations. An effective monitoring and sanctioning system must also be established to ensure that the legal requirements are fully and properly implemented (Khlabistova & Gulak, 2019).

Analysing similar provisions in the constitutions of foreign countries, it is worth noting that the Constitution of the French Republic (1958, October) establishes the powers of a certain council that has the right to draft regulations and submit legislative proposals in the field of environmental regulation. Article 70 of this Constitution provides for the possibility of the respective council to advise the government and parliament on solving or preventing environmental problems.

There are examples of constitutions of countries that do not mention anything at all about people's environmental rights in their constitutions, such as the Constitution of Austria. It is indicated that federal legislation is being developed in the field of environmental law (Federal Constitutional Act of the Republic of Austria (1920, November)). In addition, Austria has an effective instrument at the state level to regulate, in particular, environmental management through the system of pledge. This instrument provides for the possibility of establishing surcharges imposed on the retail price of goods after their disposal, etc.

The ECtHR is a special tool for protecting human rights. This body's practice implements the concept of judicial protection of environmental human rights. The ECtHR's judgments form the case law, according to which pollution is the basis for violation of citizens' rights, in particular the right to respect for private and family life or the right to life in general. Citizens face problems of access to justice when addressing their environmental problems at the state level. Such problems

include violations of the terms of consideration of environmental cases; expensive expert examinations and lawyer services; lack of free legal aid; lack of awareness of judges in the field of protection of citizens' environmental rights, environmental protection, in particular, international norms in the relevant field; lack of awareness of citizens of their rights in the relevant field (Issues of environmental protection..., 2020).

The ECtHR case law on the protection of environmental rights has considered, in particular, cases of violation of the right to life (Article 2 of the Convention), the right to respect for private and family life (Article 8 of the Convention), the right to peaceful enjoyment of possessions (Article 1 of Protocol 1), the right to an impartial court (Article 6 of the Convention), the right to a fair remedy (Article 13 of the Convention) and the right to freedom of expression (Article 10 of the Convention). The right to life is the first fundamental right enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, November).

The right to an adequate environment for life and health, as well as for work and residence, the right to socio-economic well-being and development of all states and peoples, etc. are regulated by international instruments that regulate environmental and human rights issues, although they do not have an exhaustive list of such rights (Voievodin, 2023). In general, environmental rights should not be considered independent rights, as they are an important basis for the legal provision of satisfaction of important human needs (Medvediev, 2012; Dmytrenko, 2021).

Human rights and the environment are interconnected. Accordingly, it is impossible to ensure such rights separately without a safe, clean, and healthy environment, and sustainable environmental management cannot be en-

sured without observing and respecting human rights (Kirianova *et al.*, 2020). Environmental obligations are an element of the mechanism for regulating legal environmental relations, enshrining the standard of lawful behaviour of a citizen, establishing consequences for a person in case of its violation, the fulfilment of which is ensured by the threat of state coercion, and their content is dominated by the public law element (Alexi, 2011; Zygrii *et al.*, 2020).

V. Yusupov and N. Chenshova (2021) believe that the improvement of national legislation, as well as ensuring the adoption of clear, enshrined algorithms and mechanisms for ensuring human rights in the relevant area at the legislative level, will take place through the study of the international practice of the ECtHR in cases of the relevant area, as such a study will help ensure the environmental rights of citizens at the national level.

For a better comprehension of the interdependence of these areas, it is necessary to proceed to the direct study of individual judgments of the ECtHR both concerning Ukraine and foreign countries. Particular attention should be devoted to the Judgment of the European Court of Human Rights in the Case of Hrymkovska v. Ukraine (2011, July). The applicant claimed that his home, personal and family life had been severely damaged by the operation of a main road that ran very close to his home. This caused severe air pollution with exhaust fumes, coal dust caused by the fact that holes in the road were filled with cheap material from coal mines and noise from the constant movement of trucks.

The applicant noted that the house had become practically inhabitable. In addition, the pollution had caused chronic respiratory diseases in his family members. The Court noted that in the case of an environmental threat, an unfounded claim under Article 8 may arise only when

the threat reaches such a level that it affects the applicant's ability to use his home, to have private life and to have family life. In other words, the establishment of a violation of Article 8 depends on the specific circumstances, and the concept of "causing a significant deterioration" is evaluative and can be determined by the degree of harmful effects and consequences. In practice, it is often difficult to prove that the deterioration of health is a consequence of this particular action, however, the court, having examined all the circumstances in detail, recognised the violation as one under Article 8 of the Convention.

A similar argument was put forward by the court in the Judgment of the European Court of Human Rights in the Case of *Dubetska et al. and others v. Ukraine* (2011, February). The applicant and his fellow villagers complained about water pollution, soil subsidence and frequent flooding in the village where they lived as a result of the production activities of a factory and a coal mine. The main issue examined by the court was the balance between private and public/public/state interests.

According to the court, the state authorities, in the implementation of policy and production activities, must strike a fair balance between the competing interests of those individuals (in this case, rural residents) whose rights are significantly violated and society as a whole (in this case, the economic well-being of the entire population). Undoubtedly, industrial pollution can adversely affect the health of society as a whole and worsen the quality of human life (Judgment of the European Court of Human Rights..., 2011, February). As a result, the court concluded that the Ukrainian state authorities could not strike such a balance, which resulted in a significant violation of the rights of citizens guaranteed by Article 8 of the Convention.

Importantly, in this judgment, the Court identified three criteria by which to decide whether a

human rights violation within the meaning of Article 8 of the Convention has indeed occurred. The Court has to find out: firstly, whether the situation was the result of a sudden and unexpected turn of events or, on the contrary, whether it had existed for a long time and was well known to the public authorities; secondly, whether the state knew and should have known that the danger or detrimental effect would affect the applicant's private life; and thirdly, to what extent the applicant contributed to the deterioration of the situation and was able to remedy it without excessive costs.

It may be concluded that a violation of environmental rights will not always be recognised as a violation of Article 8 of the Convention, but only if the disputed damage is significant, i.e. its elimination requires a lot of money and effort or is irreparable. The relevant study is effective given the practice of resolving foreign cases, in particular, the Judgment of the European Court of Human Rights in the Case of *Hutton and others v. the United Kingdom* (2003, July), unlike the above-mentioned decision, states the evidence of non-recognition of the circumstances requested by the applicants as a violation of the right to privacy.

Furthermore, analysing the Judgment of the European Court of Human Rights in the Case of *Moreno Gomez v. Spain* (2004, November), which concerned the exceeding of maximum noise standards in a settlement at night, the court concluded that the applicant complained of sleep disturbance due to noise from nearby pubs, bars, and clubs, which were open with the permission of the council. According to the complaint, the government is responsible for "noise pollution". The court concluded that the damage suffered by Ms. Gomez was caused by the government's solution to the problem. It was therefore found that the state had failed to ensure the applicant's right to respect for home and private life.

An analysis of the Judgment of the European Court of Human Rights in the Case of *Hutton and others v. the United Kingdom* (2003, July) has shown that although the Convention does not explicitly provide for a declaration on a healthy environment, the Court has determined in various cases concerning the quality of the environment and human presence in it that dangerous or destructive environmental conditions can adversely affect human well-being. Accordingly, Article 8 can be applied in environmental cases regardless of whether the pollution is caused directly by the state or whether the state's responsibility arises from the proper regulation of private sector activities. In such cases, a fair balance between the competing interests of the individual and society as a whole is considered; in both cases, the state may decide at its discretion what steps should be taken to ensure compliance with the Convention.

In the Judgment of the European Court of Human Rights in the Case of *López Ostra v. Spain* (1994, December), it was held that serious environmental pollution can interfere with the right to respect for private and family life (and home), which can affect people's well-being and prevent them from enjoying their homes. That is, it would hurt their private and family life. The applicant claimed that the family home had been severely polluted by a private tannery built with state subsidies on municipal land 12 metres from the applicant's apartment.

In the Judgment of the European Court of Human Rights in the Case of *Giacomelli v. Italy* (2006, November), the pollution of a toxic waste treatment plant located 30 metres from the applicant's home was found to be a violation of Art. 8, as well as in the Judgment of the European Court of Human Rights in the Case of *Fadeyeva v. Russia* (2005, June), where the state authorities violated the woman's right to housing and privacy by

failing to provide a real opportunity to receive assistance due to her location in a dangerous "sanitary protection zone" around Russia's largest metallurgical plant, which is rife with high levels of pollution and hazardous chemical emissions.

In some cases, the failure to provide information about environmental risks or accidents is a violation of Article 8, for example in the Judgment of the European Court of Human Rights in the Case of *Tatar v. Romania* (2009, January), where state authorities failed to properly assess the risk of an environmental disaster caused by coal. In the case *Guerra and others v. Italy* local population was not provided with important information to help them assess the risk to themselves and their families if they continued to live near the chemical plant until fertiliser production ceased (1994) (Judgment of the European Court... 1998, February).

In Judgment of the European Court of Human Rights in the Case of *Di Sarno and others v. Italy* (2012, January) the court found that the unpleasant smell of a landfill near the prison, which permeated the prisoners' cells, which had been their only "living quarters" for several years, fell within the scope of the right to private and family life, as did the constant failure of state authorities to ensure the collection, recycling and disposal of waste.

There are also ECtHR cases where the Court has held that Article 8 applied where adverse environmental conditions resulted from living on a flight path near Heathrow Airport. The landscaping next to the house had been adversely affected by aircraft noise, and the court recognised that claims relating to environmental conditions could in some circumstances fall within the scope of Article 8, as in *Powell and Rayner v. the United Kingdom* as in Judgment of the European Court of Human Rights in the Case of *Powell and Rayner v. the United Kingdom* (1990, February). However,

in the end, the court concluded that the state's refusal to restrict night flights from Heathrow in the interests of the country's economic well-being did not violate Article 8 or the rights of those living downstream of the flight path, given the small number of people, as in case *Hutton and others v. the United Kingdom* (2003, July).

There are also cases involving noise pollution in which the respondent state failed to fulfil its obligation to guarantee the applicant's right to housing and private life. For example, was the failure to comply with the noise level in a nightclub near the applicant's home in Valencia a violation of Article 8 of the Convention as in *Moreno Gomez v. Spain* (Judgment of the European Court of Human Rights... 2004, November), so the applicant was unable to cope with excessive noise pollution due to increased traffic on the street where the applicant worked.

Given that the issue of judicial protection of environmental rights requires a separate study and given that sufficient attention has been paid to this issue, it is worth noting that directives and regulations establish parameters and criteria for the quality of environmental components and the responsibilities of entities. In Ukrainian legislation, these are general requirements, principles, and goals, but not ways to achieve them.

The position of K. Khlabistova and O. Gulak (2019) regarding the need for appropriate institutions and budgets to monitor the proper implementation of environmental legislation is valid. It is worth noting that the authors did not analyse how national institutions can ensure the relevant functions.

The opinions of V. Yusupov and N. Chenshova (2021) in terms of ensuring the adoption of clear algorithms and mechanisms for the protection of citizens' environmental rights at the legislative level through the use of the ECtHR case law

are valid, and it is worth noting that this cannot be implemented as a feature of English law, since case law cannot be a source of law in Ukraine, as a country that is a representative of the classical continental system of law.

Quite often, cases of Ukrainian citizens are considered by the ECtHR due to the inability of national courts to meet their needs in one part or another. Citizens of Ukraine often face violations of their environmental rights, as a result of which they file, in particular, a lawsuit against the alleged violator or file a statement with the police, and as a result of the proceedings established by law, the case is resolved in court, but the applicant is not always restored or compensated for his or her violated right. The issue of resolving environmental cases by national courts is complicated due to the small number of satisfied claims, and this is the basis for applying to the ECtHR. The above is also a reason to ensure better legislative regulation of the relevant issue.

### **Conclusions**

As a result of the study of environmental rights protection in the European Court of Human Rights, several judgments addressing the protection of environmental rights at the international level were analysed. This analysis helped to achieve the goal, provided scientific novelty of the work through the study of current case law, and also provided practical value, which is the possibility of using this research for future research papers. The analysis of the ECtHR case law has shown that environmental cases should be resolved primarily by national courts, and the ECtHR can recognise that environmental human rights have been violated only in the context of Article 8 of the Convention.

When passing judgment, national courts should adhere to the criteria set by the ECtHR and

build their practice following the Court's judgments, as the courts must first find out whether the situation in question arose as a result of a sudden and unexpected turn of events or, on the contrary, whether it had existed for a long time and the public authorities were well aware of it; whether the state knew and should have known that the danger or detrimental effect would affect the applicant's private life; to what extent the applicant contributed to the deterioration of the situation and was able to remedy it without excessive costs.

Studying and applying the ECtHR case law in environmental cases is very important for the Ukrainian judicial practice, as it will not only expand the possibilities of protecting environmental rights through the Convention but also fill in the gaps in the environmental legislation of Ukraine. Given the above, it is very important to ensure the rule of law in the field of environmental rights protection and to create conditions for

removing obstacles to access to justice in the field of environmental protection and environmental human rights.

Given that Ukraine is under martial law, the risk of violation of people's environmental rights is high, and accordingly, the need to protect these rights and study such protection, including international protection, is necessary. In addition, it is important to study the consequences of environmental crimes that result from the war on the territory of Ukraine, as the relevant consequences concern not only Ukraine but the whole world, so it is important to study the reaction to such actions by law enforcement agencies in Ukraine, as well as by the judicial system and international courts.

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### ***Conflict of Interest***

None.

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## Захист екологічних прав у Європейському суді з прав людини

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### Анотація

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Нагальна проблема екологічного права України – тотальне порушення екологічних прав людини та відсутність гарантій їх відновлення, недосконалість процедури притягнення до відповідальності порушників. Оскільки Україна активний учасник міжнародних відносин у галузі охорони навколишнього середовища, а основні засади зовнішньополітичної діяльності закріплені в Конституції України, то способом відстояти порушені права на чисте довкілля може стати звернення до європейського суду з прав людини. Мета статті – вивчити питання захисту екологічних прав у Європейському суді. Основу дослідження склали такі методи наукового пізнання: формально-юридичний, догматичний, порівняльно-правовий. Проаналізовано міжнародне законодавство у сфері захисту екологічних прав. Зазначено, що екологічні проблеми не мають кордонів, а отже, їх подолання потребує, щоб усі країни об'єднали сили та обмінювалися досвідом. Констатовано, що питання охорони навколишнього середовища та екологічної безпеки набуває геополітичного характеру, зважаючи на міжнародне співробітництво в галузі охорони навколишнього середовища, яке розпочалося понад 100 років тому. Наведено ознаки забезпечення реалізації екологічних прав громадян як в Україні, так і за кордоном. Наведено приклади ефективної міжнародної співпраці у сфері захисту довкілля. Проаналізовано рішення Європейського суду з прав людини у справах, що стосуються предмету дослідження. Визначено, що національним судам, виносячи рішення, необхідно дотримуватися критеріїв, визначених Європейським судом з прав людини; з'ясувати, як виникла певна ситуація; чи знала і чи повинна була знати держава, що небезпека або згубна дія вплинуть на приватне життя заявника; наскільки заявник сприяв погіршенню ситуації та зміг її виправити без надмірних витрат. Практичне значення дослідження полягає в можливості використати його результати під час проведення профільних занять, а також під час складання наукових текстів

**Ключові слова:** судовий захист; екологічні спори; екологічна безпека; судочинство у сфері екологічного права; екологічні інтереси; екологічне законодавство зарубіжних країн