

Gdańsk University

Faculty of Law and Administration

Joanna Kopczyńska

Summary of the PhD dissertation entitled " Legal instruments for the implementation of EU directives on limiting the release of nutrients into the aquatic environment" prepared under the supervision of prof. dr. hab. Andrzej Powalowski and prof., dr. hab. Marek Jerzy Gromiec.

The aim of the dissertation was to examine the legal instruments adopted by the national legislator in terms of their behavioral effectiveness (understood as meeting the legal norm in a specific situation and acting in accordance with its content) and perfect (understood as the implementation of the states of affairs intended by the legislator and recognized as the purpose of legal regulations) in the implementation of the goal related to the reduction of nutrients entering the aquatic environment. This includes in particular the provisions of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources as well as those stipulated in the Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment. The aim of the dissertation was to deliver a comprehensive study of both legal issues and empirical (measurable) results of the application of regulations, together with the formulation of conclusions addressed to the national legislator. The aim of the examination was to verify and confirm the research theses posed in the doctoral dissertation.

The dissertation contains two basic theses. The first thesis includes answering the question whether the regulations introduced (by the national legislator) could achieve the objectives set out in the directives, or due to the lack of simultaneous application of appropriate (also understood as mutually complementing) legal instruments, their implementation was ineffective. The second thesis seeks the answer to the following question: was it possible that, despite the shortcomings of the adopted solutions, the introduced provisions contributed to limiting the release of nutrients into the aquatic environment. This was addressed via analysis of the quality of fresh and marine waters monitoring outcomes.

The research was based on the method used in scientific works of a sociological and legal nature, especially in the field of examining documents other than applicable legal acts, relevant to the law-making process and interpretation of its provisions, the observational

method as recording specific facts and relations between them, and (to a limited extent) legal-economic methods, by analyzing the cost-effectiveness of implementation, as well as unintended (side) economic effects.

The dissertation includes an introduction, conclusion and has been divided into six chapters. The first chapter of the work discusses the environmental aspects, including historical and current water pollutants; basic concepts (definitions) related to the subject of the dissertation; changes in methodologies and classifications used in water quality assessment; the impact of agriculture and municipal water management on water quality. In addition, references are made to the historical aspect related to national legal regulations relating to water pollution and, to the obligations arising from being a party to international multilateral agreements and conventions.

The second chapter is dedicated to both directives - explains their main and operational objectives, their relations with other legal acts of the European Union, describes the discrepancies regarding the scope of application and differences between the provision's addressees and obligations resulting from the Accession Treaty.

The third chapter of the thesis concerns legal instruments sanctioned in the primary law of the European Union, including instruments of law harmonization, principles and methods of transposing EU law, the most important theses from the jurisprudence of the Court of Justice of the EU. In addition, national legal constraints were discussed - including constitutional, national transposition measures; objectives of using legal instruments in environmental protection.

The fourth chapter is dedicated to the study of instruments enacted in national law, in particular: programming and planning, legal-administrative and legal-financial measures. This is also examined with reference to the changes in the approach and interpretation of regulations (of the EU institutions) that affect the assessment of the fulfillment of the directives main and operational objectives. In addition, the scope of the examination took into account the impact of the enacted, national, legal provisions aiming at harmonizing with the EU legislation, implementation of the objectives set out in other directives; consistency of the adopted provisions with other binding legal acts, which are important for achieving effectiveness.

The fifth chapter is dedicated to the results of the inspection of the implementation of both directives, inspections carried out both by statutory national authorities and EU

institutions, including the Court of Justice of the European Union. Moreover, this chapter refers to the most important conclusions resulting from audits and studies conducted with regard to the effectiveness of both directives at the level of the entire European Union (including reports of the Court of Auditors, results of legal reviews).

The last part of the work contains the assessment of legal effectiveness. The perfect effectiveness is measured using outcome monitoring, (environmental data) and takes into consideration the results of inspections carried out by national authorities in relation to entities obliged to implement the regulations. The behavioral effectiveness is assessed by taking into account the change in behavior patterns of entities obliged to respect legal provisions.

The end of the dissertations indicates the shortcomings of the currently applicable regulations (*de lege lata*), while the conclusion contains suggestions for the national legislator of possible amendments and adjustments of regulations that may contribute to greater effectiveness of implementation.

