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REVIEW OF PUBLIC LECTURES DURING THE INTERNATIONAL CONFERENCE ON ENVIRONMENTAL LAW (St Petersburg State University, 20–21 october, 2016)

The article provides an overview of lectures held in the framework of the International Conference on Environmental Law at St. Petersburg State University. The lectures covered such issues as international, European and German approaches to the problem of sustainable waste management, legal basis for the erection of Offshore Wind Farms in the German Exclusive Economic Zone and marine spatial planning in Germany, the German land planning law, including planning of land and marine areas. The article also gives the overview of some aspects concerning Brexit, including the manner in which United Kingdom is leaving the European Union, and an analysis of this historical step on the part of the UK.

Keywords: waste management, marine spatial planning, spatial organization of the land and sea areas, Brexit.

Nowadays mankind pays a special attention to the issues of environmental pollution, limited natural resources and waste management. These problems have reached a global scale, and their solution depends on the coordinated work of scientists and experts in the economic, environmental and legal spheres of society. In this regard, the St. Petersburg State University annually holds an International Conference on Environmental Law, which always refers to the legislative regulation of the conservation and rational using of natural resources.

The conference brings together lawyers who represent different legal systems, which emphasize the significance of this event and allows considering the problem of nature management from different angles. International format of the conference enables participants to share experience with foreign colleagues, including leading specialists in the field of law. This year the nature management conference was also attended by the honored lawyers: Maria Elena Zegada — Doctor of Law sciences of Dresden Institute for Eastern European Law (Leibniz Institute of Economical Urban and Regional Development) and Peter-Tobias Stoll — the Professor of the University of Göttingen (Institute for

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International Law and European Law Faculty of law Georg — August — University of Gettingen). Public lections were presented on cooperation agreement of St. Petersburg State University and Public Joint Stock Company «Gazprom Neft».

The lecture of Professor **Peter-Tobias Stoll** («*Sustainable Waste Management: International, European and German Approaches*») has covered the international, European and German approaches to the problem of sustainable waste management. Such a coverage of problem shows that Germany today adheres to the European approach to waste management that is significantly different from the Russian Federation's policy in this area due to various reasons, including territory, population density and others.

The Professor emphasized that the waste problem of waste management is more complicated from legal point of view than problems associated with the use of water and air pollution. Considering the issue of waste management in various fields we can conclude that there are the multidimensional problems of human society's influence on the environment. Such an effect can be described in two levels: the first (input) level on which people assign the living and non-living environmental resources, develop land with the aim of future use; the second level where a person has to return waste from resource usage into the environment. On this basis it can be concluded that the problem of waste management requires coordinated efforts. Waste management policy in Germany includes more than 30 laws, ordinances, guidelines, despite the fact that 80% of rules determined by the European Union (hereinafter — EU). There is also an important moment that about 250 000 employees are involved in the waste management.

Waste management legislation in Germany can be described as a system of few elements, where legislation addresses to this sphere of environmental law. The system is consists of several law categories:

1) rules on plants, installations and facilities, which include production sites, incineration facilities and landfills (comprising norms described the ways it should be constructed in order to safely carry the garbage, not to produce too much garbage, rules aimed at preventing the air pollution);
2) rules on industrial activities, including production, incineration to burn waste and make it compact and transport of waste (comprising the special rules about labels, which mark the transport, carrying waste);
3) rules on substances, particularly hazardous ones, including nuclear substances;
4) rules on environmental components — water law, nature and soil protection law.

The Professor paid a special attention to the history of development of environmental legislation in Germany: establishment phase, consolidation phase, EU influence phase and (failed) codification phase. This history has carried out since 1957 when the first Federal Water Act[1] was appeared. Later, in 1972 the first kind of waste management law — Waste Disposal Act — was passed to give the Federation a right to govern waste activities[2]. At that time people bound the problem of waste basically with a possible adverse effect on human health and purity of settlements. Later, in 1986 with the passing of Amendment Waste Disposal Act the situation had changed.

For a long period of time Germany put all the waste in the waste bins and it ended up with the crises of the landfills. In order to solve this problem government offered to burn more waste, to have more incineration facilities, but it was risky — people didn't like this way, firstly, because of harmful influence on the air and respectively their health and, secondly, because some substances couldn't be burn at all (for example, heavy metal). So in 1986 the government decided that it should be more redaction, recovery and recycling of waste. Then, in 1996 finally there was the renaming of the Waste Disposal Act, which now called Closed Cycle Management Act[3].

[1] Gesetz zur Ordnung Des Wasserhaushalts (Wasserhaushaltsgesetz). URL: http://www.gesetze-im-internet.de/bundesrecht/whg_2009/gesamt.pdf

[2] Abfallbeseitigungsgesetz (AbfG). Bundesgesetzblatt, 1972. no. I, 873 p.

[3] Kreislaufwirtschafts- und Abfallgesetz (KrW-/AbfG). Bundesgesetzblatt, 1994. no. I, 2705 p.

In 1992 Packaging Ordinance was passed, obliged the producers and distributors to reduce packaging and innovate the recycling packaging so that consumers would be under obligation to hand over packages and producers and distributors would be under obligation to except and recycle these packages[4]. This Ordinance became the most meaningful step in the development of the environmental legislation concerning producers and distributors.

German experience in this area was also very effective due to the fact that the producers included in the so-called «dual waste management system», aimed at improving the waste packaging and the use of additional yellow tote bins for used packaging.

Later, in 1998 the Soil Protection Act[5]was appeared, which provided a much stricter regime for the control of soil contamination, which gave an additional incentive to compliance of waste management rules. In 1987 the Single European Act[6] was appeared that was a mandate for environmental protection in the EU and since that time Germany had a competency for waste management in the EU.

In an abstract way we can describe the development of the German garbage system as a shift from the law made by the municipalities to the law made by the EU. So, the first was to get more competencies on the federal level in Germany, which had not existed before, because waste management was considered as a municipality's issue. Moreover we can see the changes in objectives, where in 1972 there was a focus on a human health, but later in 1987 it was moved to the shorted of landfills. Today in Germany the idea of environmental policy is basically a kind of a competition between municipalities, Länders and private actors on those parts of the waste, which have an economic value (glass, paper, some plastics etc). There was a change in actors — today there is more private initiative.

The main obligation on consumer is to separate waste which is important because Germany has different kinds of recycling mechanisms, so that it is necessary to separate waste in order to make the recycling function. Today Germany has the separate collectors of glass, plastic, paper and the biological material. Then, there is an obligation to hand over the waste to the municipalities.

Nowadays Germany has a good planning, including future location for landfills, transportation and the kind of relative pressure on a regions concerning landfills situation. The same management can be used applied to incineration. But incineration includes a problem that still make people worried about: where to put the plastic? On the one hand, plastic is a needed material for recycling, on the other hand, waste separation system is not effective enough to supply the processing industry and recycle the chemically different types of plastics. In Germany there are the little labels on the plastic products that describe the chemical type of plastic in order to know the future type of recycling. Today Germany has a system of the plants that separate plastic waste, but not all of them are recyclers of these waste. On the contrary, some people say that it would be cheaper to burn all the plastics together in order to produce energy.

Germany has a close cycle management law, which includes various kinds of planning and quotas that are set for incineration and recycling, particularly plastic. The packaging industry has to meet certain quotas for several years in order to be able to sell the used plastic containers.

Producers in accordance with the law have a number of obligations, some of which are connected with adequate protection of the waste management system. Manufacturers in Germany are not allowed to start production, unless it will be proved that the system is established and protected; otherwise, they cannot obtain the necessary license. There are also a number of obligations related to the production of goods, which are primarily focused on developing products that can be recycled in the future.

The other problem is a constitutional one. The territory of Germany in a way characterizes the previous periods of bad environmental policy. There is about 50–70 % hazardous waste sites which came from earlier industrial activities. Some said that Germany develops an accounting system of these sites, but it seems to be very expansive and ineffective. In accordance with German law, the full

[4] Verpackungsverordnung. Bundesgesetzblatt, 1991, no. I, 1434 p.

[5] Bodenschutzgesetz (BBodSchG) // http://www.gesetze-im-internet.de/bbodschg/index.html (2016. 22 Dec.).

[6] The Single European Act. Official Journal of the European Communities, 1987. no. L 169.

responsibility for cleaning landfills without any reference to the potential cost of the work lays on actual landowners. History shows that bought the piece of land people found out that it was a hazardous landfill on this land and they should invest all their money to clean it up. There was a case proceeded in the Constitutional Court where a piece of land cost a 20 000 euro and a cleanup cost was 5,9 billion euro. So, in that case the court said that there is a level for responsibility of the landowner which would be a commercial value of the cleaned piece of land. In 1999 the Soil Protection Act[7] didn't change the situation but developed instruments for documentation to give new competency.

Further the Professor addressed to the legislation issue from the European Union point of view. There are basically two types of agreements in the international law on this subject.

The first one is for those issues where a waste would be a danger for a common good. For the Germany and Russia the example would be the Baltic Sea. The Helsinki Convention[8] obliges the countries-participants to develop and implement a system of the measures for prevention and elimination of pollutions, coming to the Baltic Sea from various sources. The second part of international law concerning waste is a protecting of the sovereign decision made by the countries because in the past industrialized countries sometimes were exporting the hazardous waste to develop their countries and it wasn't secure in every case. The import decisions made by the developing countries were irrational ones.

The Basel Convention[9]was basically asking countries to define a specific institution in government to be in charge for giving the import license — a security about institution that would be competent, and it also described the kind of information that should be given to that specific government agency in order to make the legitimate decision on it. It shows that waste is not only the national problem but it is an international problem and all countries can make a rational decision on it. That is why the Basil Convention is so important.

In conclusion, the professor suggested that waste management requires a multi-regulatory environment through a system of laws, and the consideration of this issue only within the framework of the law is the wrong approach. Moreover, states are required to create a cyclical concept of working with products, not only handling the issue on the legislative level, but also by providing proper economic assistance. It is necessary to create a a coherent legislative base, governing waste management, taking into account the efficiency and clarity of the law, as well as possible «overflow» problem of environmental problems from one to another, reflecting their close relationship. This process means that the specific environmental problems may lead to another. An example of this is the burning of waste, which entails air pollution. It is necessary to take into account the lack of attention to waste management issues on the international level, mainly because the issue resolved at the regional (preservation of common values) and national levels.

*Dr. María Elena Zegada*in a lecture addressed the topic of the legal basis for the erection of Offshore Wind Farms in the German Exclusive Economic Zone, as well as marine spatial planning. Today in Germany carried out a reorientation of energy policy (*Energiewende*), which served as the impetus for the Fukushima tragedy.Germany seeks to the phasing out of the use of nuclear energy until the end of 2022 and the simultaneous promotion of renewable energy sources. Therefore wind energy is an important contributor to the new renewable energy targets energy. The offshore development targets in the North Sea and Baltic Sea had changed since this policy has just started. It is imagined that offshore wind energy farms could be growing rapidly. The aim is to realize this idea due to the Reform of the Renewable Energy Act 2014[10]: by 2020 it should be installed 6500 MW (megawatt) and by 2030–15 000 MW. Sitting and permitting is a task of Spatial planning.

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[7] Bundesbodenschutzgesetz (BBodSchG) // http://germanlawarchive.iuscomp.org/?p=322 (2016. 22 Dec.).

[8] Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1974 (Helsinki Convention) // http://www.consultant.ru (2016. 22 Dec.).

[9] The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal // http://www.consultant.ru (2016. 22 Dec.).

[10] Erneuerbare Energien Gesetz (EEG) // http://www.bmwi.de/English/Redaktion/Pdf/renewable-energy-sources-act-eeg-2014,property=pdf (2016. 22 Dec.).

Maritime spatial planning (hereinafter — MPS) is a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives. In according with the Action Plan (EC 2007) "MPS is a tool for improved decision — making. It provides a framework for arbitrating between competing human activities and managing their impact on the marine environment. Its objective is to balance sectoral interest and archive sustainable use of marine resources in the line with the EU Sustainable Development Strategy"[11]. This aspect is important because economic activities such as energy production and transport are increasing rapidly in European marine environments and there is a need to solve user conflicts and balance various interests by cooperation.

An exclusive economic zone (hereinafter — EEZ) is a sea zone prescribed by the United Nations Convention on the Law of the Sea (hereinafter — UNCLOS)[12] over which a state has special rights regarding the exploration and use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles from its coast. The coastal state has no sovereignty to EEZ.

The most important norms of the UNCLOS in this sphere are the Art. 56 (1.a) and 77 (1) — "rights, jurisdiction and duties of the coastal state in the EEZ". This is a basis for the marine spatial planning in Germany.

Germany doesn't have the marine special act, but there is a Federal Spatial Planning Act (hereinafter — SPA)[13] which in some articles address the topic of the EEZ. In according with §1 Abs. 2 SPA there is s guiding principle — "sustainable spatial development", which means that social and economic demands need to be consistent with ecological functions. The Planning Act regulates that spatial plans for the coastal area and territorial sea are developed by the German Länder (Federal States). Plans for the EEZ are developed by the Federal government. The legal ordinances concerning the spatial plans for the German EEZ in the North and the Baltic Sea comprises as an attachment the spatial plan (text and map), that was entered into force on 2009.

All international agreements and European regulations existing for the EEZ must be observed within the scope of the spatial planning provisions (Art. 17 §3 SPA).The development of the objectives and principles for the EEZ shall take place within the framework of the provisions of the UNCLOS especially on the economic and scientific requirements, on the shipping and marine environmental protection.

Besides the Spatial Planning Act as the most important legal regulation concerning EEZ and MPS in Germany there is an extensive legislation including Federal Maritime Responsibilities Act[14], Marine Facilities Ordinance, Act on the Development of Renewable Energy Sources[15], Energy Industry Act (Offshore-Gridplan)[16], Grid Expansion Acceleration Act, Federal Mining Act[17], Environmental Impact Assessment Act[18], Federal Nature Conservation Act[19]. The European level of legislation is not so ramified and represented by Marine Strategy Framer Directive (hereinafter — FD)[20], Water

[11] Mitteilung der commission. Fahrplan für die die maritime Raumordnung: Ausarbeitung gemeinsamer Grundsätze in der EU// http://eur-lex.europa.eu (2016. 22 dec.).

[12] United Nations Convention on the Law of the Sea // http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf (2016. 22 Dec.).

[13] Raumordnungsgesetz (ROG) // http://germanlawarchive.iuscomp.org/?p=647.

[14] Gesetz über die Aufgaben des Bundes auf dem Gebiet der Seeschiffahrt (Seeaufgabengesetz — SeeaufgG). Bundesgesetzblatt, 2002. no. 53, p. 2876–2885.

[15] Erneuerbare Energien Gesetz (EEG) // https://www.erneuerbare-energien.de/EE/Redaktion/DE/Gesetze-Verordnungen/eeg_2014.pdf?__blob=publicationFile&v=7

[16] Gesetz über die Elektrizitäts- und Gasversorgung (Energiewirtschaftsgesetz — EnWG) // http://www.gesetze-im-internet. de/enwg_2005/BJNR197010005.html (2016. 22 Dec.).

[17] Bundesberggesetz (BBergG). Bundesgesetzblatt, 20 August 1980. no. 48, p. 1310–1363.

[18] Gesetz über die Umweltverträglichkeitsprüfung (UVPG). Bundesgesetzblatt, 1990. no. I, 205 p.

[19] Gesetz über Naturschutz und Landschaftspflege. Bundesgesetzblatt, 1998. no. I, 2994 p.

[20] Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive). Official Journal of the European Union, 2008. no. L 164/19.

FD[21], Environmental Impact Assessment[22]. International level regulates EEZ and MPS with the assistance of UNCLOS, International Maritime Organization, Convention on Biological Diversity[23], Baltic Marine Environment Protection Commission (hereinafter — HELCOM) and OSPAR commission[24] in the ecosystem approach.

Under the German system, there are two types of sea areas: priorities and "reserved." The Priority water area is a zone in which one kind of nature management (shipping, offshore wind power, pipeline and others.) gets the priority right to use marine resources in comparison with other species of wildlife. The second type of water area — "reserved area", in which one kind of nature management is given a special attention and over which provides control compared to other goals and objectives of the development of the water areas (maritime transport, research). In the priority area of offshore wind power plants are no other permitted activities. But the placement of wind farms outside the priority areas is possible excepting areas protected by the Natura-2000 program.

Referring to the legal framework for the erection of wind farms in the German EEZ, it is important to emphasize that there is a system of the related acts. The most important legal regulation in this sphere is the United Nations Convention on the Law of the Sea, followed by the German Federal Maritime Responsibilities Act[25], implemented by the Marine Facilities Ordinance (Seeanlagenverordnung) which is the basis for the approval procedure.

In Germany, a quite detailed legal framework for licensing installation and operation of offshore wind farms (hereinafter — OWF) and their corresponding electrical power transmission systems (e. g. converter platforms, grid connection) in the EEZ is in place. The installation and operation of OWF requires a plan approval procedure pursuant to Art. 2 §1 of the Marine Facilities Ordinance. But this project does not impair the safety and efficiency of navigation, and it is not detrimental to the marine environment. The positive aspect is that all licenses are concentrated within one license.

The next issue is the procedure for the erection of wind farms. The Federal Maritime and Hydrographic Agency (hereinafter — BSH) is the agency which decides on the approval of offshore wind farm development projects in the German North Sea and Baltic Sea. It carries out the application procedure for wind farms in the German EEZ. The BSH's responsibility is defined in Art. 2, §2 of the Marine Facilities Ordinance in connection with the Federal Maritime Responsibilities Act.

Most of the German offshore wind farms are planned to be installed in the EEZ. The neighbors of Germany (Denmark, Holland) have a lot of experiences in this offshore reaction of the wind farms, but the citizens are complaining that these turbines are not nice and they don't want to habit close to them, moreover it is bad for tourism. So in Germany the Government thinks that it is a good idea to build these farms far away from the coastal zone. In the area of the territorial sea, responsibility of the approval of the wind farms rests with the German coastal states.

There are lots of reasons for denial of an approval, among which are threat to the marine environment and bird migration, threat to safety of shipping traffic, threat to national or allied defense and other public law requirements. Other overriding public interests, including mining activities, fishery, military interests and energy supply (cables or pipelines).

The BSH reviews whether the marine environmental features to be protected (e.g. birds, fish, marine mammals, benthos, sea bottom and water) are put at risk by the project. Offshore wind farm projects comprising more than 20 turbines require an environmental impact assessment based on the

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[21] Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy. Official Journal of the European Union, 2000. no. L 327.

[22] The Environmental Impact Assessment Directive 97/11/EC. Official Journal of the European Union (L 073) 14.03.1997 (amending 85/337/EEC).

[23] Convention on Biological Diversity. Rio de Janeiro, 5 June 1992 // https://www.cbd.int/doc/legal/cbd-en.pdf (2016. 22 Dec.).

[24] The Convention for the Protection of the Marine Environment of the North-East Atlantic // http://www.ospar.org/convention/text

[25] Gesetz über die Aufgaben des Bundes auf dem Gebiet der Seeschiffahrt (Seeaufgabengesetz — SeeaufgG).

Environmental Impact Assessment Act[26]. This act requires that applicants investigate the marine environment in the project area and predict the impact of the projected wind farm.

The BSH has issued regulations specifying the required scope of the investigations to be carried out by the applicants with respect to each of the features to be protected (so-called „Standards for the Environmental Impact Assessment"). BSH and the competent regional Waterways and Shipping Directorate also examine whether the project would constitute a hazard to navigation. In order for a wind farm project to obtain approval, the regional Waterways and Shipping Directorate must have consented to it under the aspect of navigational safety.

The list of application documents includes the environmental impact study, technical risk analysis about the probability of a ship or wind turbine-collision, design basis (according to Standard „Design of OWT"), preliminary draft of installation structure (according to Standard „Design of OWT") and prognosis on the hull-retaining configuration of the substructure of the foundations.

The approval procedure is complicated and consists of several steps. The first round of participation includes the small circle of authorities and the second round of participation runs with the broader circle including several non-governmental organizations and associations. The last round of participation is as 2nd round with participation of the neighboring states. The decision depends on quality of documents after roughly 3 years.

Speaking about the challenges of the reorientation of energy policy, Dr. Maria Elena Zegada emphasized that the legislation in this sphere, foremost the Maritime Spatial Planning, is highly developed, as well as the legal framework for licensing installation and operation of offshore wind farms. Generally Germany doesn't need to create the new legislation and plans but according to the European framework directive there are some aspects that should be amended in the German legislation. At the same time this correction of the legislation in the sphere of Exclusive Economic Zone in Germany isn't so important and needed.

The lecture of Dr. **Maria Elena Zegada** ("*The right of the spatial organization of Germany, including the spatial organization of the land and sea areas*") was applied to the comparative analysis of the spatial organization in Germany and the Russian Federation. Germany Land Level includes 16 federal states including several Coastal Länder which are Lower Saxony, Schleswig-Holstein, Bremen, Mecklenburg-Western, Pomerania and Hamburg. The territory of the Russian Federation, consisting of the 85 Subjects of the Russian Federation, includes 21 Subjects that have the marine areas. The municipal level in Germany consist of 11,418 communities, in the Russian Federation it is around 23,000 municipalities in 2 levels including municipal and urban districts on the first level, urban and rural settlements, inner city areas in Moscow and St. Petersburg on the second one.

The level of the planning in Germany and Russia can be described as 2-level system — the federal level and the level of the subjects (lands). In Germany the federal level of the drafting of plans for spatial organization of an exclusive economic zone in the form of legal requirements is the competence of Federal Ministry of Transport, Building and Urban Development. Federal Maritime and Hydrographic Agency of projects of territorial organization plans and carries out strategic environmental assessment and public participation process, and is also responsible for approval (for example, wind energy). In Russia the functions of spatial planning belong to the Department of Strategic and Spatial Planning, Ministry of Economic Development of the Russian Federation.

On the level of the lands in Germany the competence on the planning of the territorial waters and inland waters belong to the federal lands. In the Russian Federation the competence in the field of territorial planning is assigned to the management of Department of Strategic and Spatial Planning.

The most important legal basis of the marine spatial planning in Germany and Russia is represented by the ramified system of the legislation. In Germany it includes the Spatial Planning Act, Federal Maritime Responsibilities Act[27], Marine Facilities Ordinance, Renewable Energy Sources Act[28],

[26] Gesetz über die Umweltverträglichkeitsprüfung (UVPG).

[27] Gesetz über die Aufgaben des Bundes auf dem Gebiet der Seeschiffahrt (Seeaufgabengesetz — SeeaufgG).

[28] Erneuerbare Energien Gesetz.

Energy Industry Act (Offshore-Gridplan)[29], Grid Expansion Acceleration Act, Federal Mining Act[30], Environmental Impact Assessment Act[31], Federal Nature Conservation Act[32]. In Russia it is represented by the project of the Federal Law "About the marine spatial planning", Maritime Doctrine of the Russian Federation until 2020, Russian maritime activities development strategy until 2030 and the complex of the Federal Laws such as FL "On the continental shelf of the Russian Federation"[33], FL "On the exclusive economic zone of the Russian Federation"[34], FL "On the inland seas, territorial waters and adjacent waters of the Russian Federation"[35], FL "On fishing and preservation of biological water resources"[36], FL "On Environmental Protection"[37], FL "On Specially Protected Natural Areas"[38], the Water Code of the Russian Federation[39].

International basis includes the UNCLOS, Convention on the International Maritime Organization, Convention on Biological Diversity, HELCOM and OSPAR commission[40] in the ecosystem approach. The complicated marine planning policy of the EU includes Framework Directive on Marine Strategy, Water Framework Directive, Integrated Coastal Zone Management, Directive on the protection of birds and conservation of flora, fauna and habitat, Strategic environmental assessment, Directive on the establishment of a framework for Maritime Spatial Planning.

If we draw the parallels between the basis and principles of the planning in Germany and Russia, we can notice that there are several aspects that should be emphasized. The main idea of the spatial organization in Germany is a sustainable spatial development with a balanced combination of the social and economic aspirations of the territory with its environmental features. In Russia the Urban Development Code[41] includes such an important principles as sustainable territorial development, balanced accounting of the natural, environmental, economic, social, national and other conditions and factors, the implementation of urban development activities in according with the requirements of environmental protection and ecological safety, implementation of urban development activities in according with the requirements of the conservation of cultural heritage sites and protected natural area.

The Federal level of EEZ spatial organization planning in Germany includes the Priority Areas (navigation, wind energy, pipelines and submarine cables) and the Restriction Areas (navigation and pipelines). In Russia the functional offshore marine areas are the areas that have borders and purpose in the framework of marine planning documents. There is also ecosystem approach to marine planning which means providing environmentally acceptable impacts of different types of marine ecosystems with the rational use of marine resources. The Federal level in both countries needs the additional searches. The aims and the basic principles concerning the ecological functions in Germany

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[29] Energiewirtschaftsgesetz.

[30] Bundesberggesetz.

[31] The Environmental Impact Assessment Directive 97/11/EC.

[32] Gesetz über Naturschutzund Landschaftspflege.

[33] Федеральный закон от 30.11.1995 № 187-ФЗ «О континентальном шельфе Российской Федерации» // СЗ РФ. 1995. № 49. Ст. 4694.

[34] Федеральный закон от 17.12.1998 № 191-ФЗ «Об исключительной экономической зоне Российской Федерации» // СЗ РФ. 1998. № 51. Ст. 6273.

[35] Федеральный закон от 31.07.1998 № 155-ФЗ «О внутренних морских водах, территориальном море и прилежащей зоне Российской Федерации» // СЗ РФ. 1998. № 31. Ст. 3833.

[36] Федеральный закон от 20.12.2004 № 166-ФЗ «О рыболовстве и сохранении водных биологических ресурсов» // СЗ РФ. 2004. № 52 (часть 1). Ст. 5270.

[37] Федеральный закон от 10.01.2002 № 7-ФЗ «Об охране окружающей среды» // СЗ РФ. 2002. № 2. Ст. 133.

[38] Федеральный закон от 14.03.1995 № 33-ФЗ «Об особо охраняемых природных территориях» // СЗ РФ. 1995. № 12. Ст. 1024.

[39] Водный кодекс Российской Федерации от 03.06.2006 № 74-ФЗ // СЗ РФ. 2006. № 23. Ст. 2381.

[40] The Convention for the Protection of the Marine Environment of the North-East Atlantic. URL: http://www.ospar.org/site/assets/files/1290/ospar_convention_e_updated_text_in_2007_no_revs.pdf.

[41] Градостроительный кодекс Российской Федерации от 29.12.2004 № 190-ФЗ // СЗ РФ. 2005. № 1 (часть 1). Ст. 16.

are developed at the level of the Lands. Priority and Restrictive Areas of using are elaborated with the environmental aspect.

Another important aspect in the sphere of spatial planning is involvement and accounting of the public opinion. In Germany in addition to the basic laws on public involvement and environmental information (Federal Act on Administrative Procedure) special rules in the Law on Territorial Organization was created. It includes public involvement at the federal level where the term "public" means any individual or organization interested in spatial planning. Public opinion must be merely "taken into account".

In Russia in addition to sectoral environmental regulation concerning public participation (Federal Law on Environmental Protection, article 11–13) there is a specialized regulation in the Urban Development Code which includes public involvement only at the municipal level (art. 28). As well as in Germany "community" is any individual or organization, but in practice they are limited based on property rights. Public opinion must be merely "taken into account" (art. 28 abz.9).

There is no sufficient legal basis for an integrated marine spatial planning in Russia at the moment. At the same time, there are over 100 legal acts that directly or indirectly deal with the issue. There is a need to regulate the subject of the planning, the distribution of authority and other aspects.

Today there is the concept of the draft law on maritime planning in the Russian Federation. The plan of legislative activities of the Government of the Russian Federation to 2014 provided for the drafting of Federal Law "On maritime planning in the Russian Federation" (paragraph 59). The aim of the project is to improve the efficiency of public administration and quality of public services in the field of maritime activities. The working group for the development of the legislative basis consisted of 34 participants from various federal and regional governmental bodies and experts.

Marine planning is a planning of the targeted use of sea areas for different types of maritime activities (including exploration, development and conservation of natural resources, which are on the bottom, its subsoil and the superjacent waters, management of these resources, produce energy through the water, currents and wind, creation and use of artificial islands, installations and structures, marine scientific research, protection and preservation of the marine environment) as well as the development of coastal areas in order to determine the planned deployment of the coastal infrastructure providing these activities.

The Federal law will establish a legal and organizational framework for marine planning in the Russian Federation, to regulate the procedure for the preparation, coordination, approval and implementation of integrated marine plan for the integrated development of maritime activities in the Russian Federation.

The main activities of maritime spatial planning in Russia includes such aspects as marine and multimodal transportation, port development, naval operations, border security, environmental activities, fishing and fish farming, protection of Historical and Cultural Heritage, tourism and recreation, scientific research, exploration and mining, installation of utilities, power supply facilities construction and construction of other artificial engineering structures.

It is important to note that during the development of the draft law in Russia the international experience including the experience of Germany was also taken into account. There is a bilateral active cooperation between the two countries. In Germany, as well as in Russia, there is a reassessment of approaches to environmental problems, which opens the way for the two countries to further cooperation. In this regard the key question is to take into account the compatibility of the national legal systems and the development of the approaches in such a way that it could possibly interact freely.

The professor Peter-Tobias Stoll referred ("*Brexit — a formidable challenge for lawyers*") to the breathtaking question of "Brexit" — the way that United Kingdom (hereinafter- UK) is leaving the European Union. Peter-Tobias Stoll tried to give the overview of some aspects concerning Brexit, in particular consequences and possible meaning of this event for the UK in view of constitutional issues, the way in which other non-EU members managed to be closed to the common market of the EU. At the end of the lecture the Professor came to the conclusion that this historical step of the UK is a "golden age" for the lawyers because it gives a wide range of the legal issues for the future discussions.

Before Germany was created, the Göttingen was situated in the Kingdom of Hanover which for some time was governing by the UK in the period of the "dual monarchy". This period ended up when the Princess Victoria was born as under England law she would become the queen of England, but under Hanover rule she didn't have that possibility, because only men could become the ruler of the country. As a Professor, serving in the University that was founded at the time of the dual monarchy of Hanover king that was also the English king, the lecturer noticed that the experience of Brexit is not so new. Even at that time there was a kind of the split between the UK and Germany or the Kingdom of Hanover, although it was caused by the Kingdom of Hanover that was sinning by the women's discrimination. This historical experience precedes the event that has happened today.

The Professor started with the analysis of the membership of the UK in the EU and paid attention that from the very beginning this country was in a special position in the EU that was different from membership of other countries (Italy, Greece, Spain etc). It can be illustrated by some aspects.

The UK became the member of the EU rather lately, which was caused by France that retorted about the UK join the EU for a long period of time. Finally in 1973 the UK became the member state of the EU. Nevertheless, soon afterwards some resistant positions of the population in the UK about various aspects of being a member of the EU were appearing.

The first statement against membership was that members should pay money to the EU in order to finance it which is calculated as a proportion of the value added tax that any member states paid. Then, the EU member states enjoy EU funding in some areas, including farming. It was not pleasant for UK especially during the government of the Margaret Thatcher. So, the decision was to made a "UK rebate" which means that this country was paying a lesser duties (about 66 %) than the other members do. It was the fair decision because the UK received no income from the agricultural policy of the EU. In the project of the EU there was the creation of the Schengen area (1985) to travel on the territory of the EU members without passport due to the abolishment of border controls. This project was not accepted by UK that became the second aspect illustrating the specialty of UK. The next step was the foundation of the European Monetary Union in 1992 when the euro has become an official currency in EU. As well as in the previous step the UK remained outside of this policy.

So the UK always was critically minded about the further development of the EU and it was rather peculiar situation in a view of the "UK rebate". Indeed the special position of the UK and way of thinking of British people has become the Brexit reasons.

The British had been the only nation that had a separate implementation act — The European Communities Act of 1972[42]. In the other member states the ratification of the international treaties (the Treaty of the European Union, the Treaty on the Functioning of the European Union) would be sufficient to give the legal effect of EU law in the particular countries, but in the case of UK we have an implementing act that shows that the whole idea of the EU and its rules would be applicable in each of the states without any further act of implementation. Later on the House of Lords and Court of Justices of the European Union made it clear that there is the priority of the EU law over member states law that was also applicable in the UK but it was needed the additional court rulings to clarify this point. The Professor noticed that European Community Act is named in such a way because in that time there were three separate communities –the European Coal and Steel Community, the European Economic Community and European Atomic Energy Community, that later were merged to the European Community (nowadays — EU).

The referendum that was held in 23 July 2016 became the historical step of the UK where people were asked about their opinion whether their country should belong to the EU or not. The similar referendum was held in the 1975 after two years obtaining EU membership, which ended in a 67,2 % votes for the UK to remain a member of the EU. In 1997 the "referendum party" in the UK elections for the English government promoted the idea of having another referendum on UK remaining the

[42] European Communities Act 1972 // http://www.legislation.gov.uk/ukpga/1972/68/section/1 (2016. 22 Dec.)

member of the EU. It shows the strong historical line of criticism and appeal to the people's opinion on this issue.

The main arguments in the campaign of this year can be described in three aspects. The first was the financial aspect — contributions of UK to EU should be spent for national purposes rather than for the EU. The second aspect was the immigration problem that gets out of control. The third argument was that the issues should be decided in London rather than in Brussels.

The result of the referendum showed that there is about 52 % of whole population voting in favor leaving the EU. But it is also important to note that in certain areas there are some differences: in Scotland the number of votes for remaining the member of the EU is about 62 %, in North Ireland it is about 56 %. Today the Scottish government is reflecting on having next referendum on Scotland leaving the UK and remaining the member of the EU.

This controversial situation nevertheless raises the questions that can be interesting for the lawyers: it is not the easy step to leave the EU. The basic provision on this issue is the Article 50 of the Treaty of the European Union[43] that was introduced only in 2009. Anybody can claim that members of the EU wish to leave the community that was created to the long-term and sustainable development. Another premise of the appearance of this rule was that the Treaty of Lisbon which is the most recent Treaty amending on the constitutional treaties of the EU, has a provision on the leaving.

The Treaty contains the following rule of withdraw from the European Union:

"1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218 (3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament."

This article basically invested that firstly the member states can leave the EU and it should be the negotiation and agreement on the future relationship between the EU and the remaining member but with the other member states, which is nowadays is the sphere of the discussion.

The par. 3 of the Art.50 also contains the rule, that "treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after thenotification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period."

"Treaties" in this paragraph mean all the European law including the fundamental provisions in the Treaties of the EU and secondary law — regulation guidelines that are in the EU, all the judgments of the Court of justice of the EU. This important rule means that if there is no agreement between the European Union and the country which has left the European Union, the EU's legal regime in this country will cease after 2 years. It means first of all that all the EU rules and jurisdiction of the Court of justice of the EU and the primacy of EU law before national law will cease to exist and it also means that will not be anymore member of the common market including free movement of goods, freedom of establishment, free movement of workers and free movement of capital. The strong position of London city as a financial market place may likely come to an end because it cannot be anymore offer financial services to the rest of the EU. It cannot any more transfer the capitals to other European destinations freely.

In terms of the EU the Brexit has very important and negative impact but does not concern the functioning of the EU because it easily functions without one member state. Undoubtedly it leads mainly to the political and economic implications.

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[43] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union // http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2008:115:TOC (2016. 22 Dec.)

There are always numbers of constitutional questions. At the moment there is an appeal lodged by certain UK citizens — Gina Miller and Deir Tozetti Dos Santos — against the British government to the Queen's Bench of High Court of Justice. The citizens ask the government whether Her Majesty's government entitled to issue the declaration under Art. 50 on its own or does it require an act of Parliament. It is quite an important issue because the British government is against Brexit and doesn't really want Britain to leave the EU unlike people.

In this court decision the citizens would like to make the High Court to order the British government to ask the Parliament before explaining formally and officially its intension to leave the EU. The British government argues that they could do it alone relies on the prerogative of the foreign affairs which is the part of the most constitutional orders of states in the world. It is automatically the power of the government to undertake the international relation and that is nothing for the Parliament which has only some influence (ratification of the international treaties) but the conduct of the international relationships is the prerogative of the government.

On the side of the Parliament there is an objection that the 1972 European Community Act is the corner stone of the application of the EU law in the UK. As this is an act of legislation the Parliament has to come in also on the decision on giving this information to the European Council on the intention of the UK to leave the EU.

There next challenge for lawyers concerns the possibility of future Scottish independence referendum. Two years ago, the Scottish referendum excited not only the UK but also the entire world community. Scotland believes that this experience can be repeated now.

Another issue is the impact of the Brexit on the UK's and EU's international relations. The WTO is mixed agreement and it has to be concluded with the EU and its member states at the same time. Today it is difficult to say what would happen if the UK would leave the EU because in the agreement of the establishing of the WTO there is a specific article concerning the number of votes the EU would have, for instance, in the General Council of the WTO. There is even the specific provision to reflect this kind of the mix of the membership between the EU and its members. The membership of the UK is in a way a part of the membership of the EU. If the UK would intent to vote differently from the rest members of the EU in their decision on the General Council of the WTO. Would it still be the EU which is entitled to give all the votes for its member states in the decision in the WTO? This question concerns not only the WTO, but also other organizations such as UNFCCC, Paris Agreement, CBD, which also are concluded as mixed agreements.

There are two options if the UK really issues its intent to leave the EU: soft Brexit and hard Brexit. The soft Brexit would be a kind of negotiations of future relationship within two years between the UK and the EU. On the side of the Brits it would basically be an option to get further access to the common market.

Recently Theresa May, the Prime Minister of the United Kingdom, said that there is also another way — way of Hard Brexit. It implies that it will be no negotiations with the EU, but the UK takeover all the legislation of the EU in order to country still function because EU law is rather strong: there are plenty of rules for economic, environmental, consumer protection issues in the country that is a member state of the EU. The country cannot stop the application of the EU law on one day because it would lead to the loss of about 80 % of all the rules which are used in the country. The Hard Brexit takeover all the EU legislation but the Britain doesn't negotiate it with the EU, they simply takeover the legislation on their own and later they would step-by-step revise these laws.

The Professor noticed that there are also a number of countries that are not the members of the EU although they are situated in the mainland of the EU, for instance Norway and Switzerland. These countries exist in the proximity of the EU without being members of it, but nevertheless taking part in the common market. For this reason there is a system called the European Economic Area (hereinafter — EEA) since 1994 which mainly includes Iceland, Liechtenstein and Norway (successor of EFTA) and which constitute the free trade area together with EU where about 80 % of the EU rules are applicable for the functioning of the common market. As compensation to these countries to takeover EU law they have a kind of participation in the rulemaking of the EU. These countries

also have to pay to being close to the common market although they are not the members of the EU, for example Norway pays about 3 billion euro in a year for being a member of this EEA system. Switzerland had a referendum against EEA membership in 1992 but this country is linked to the EU by two bilateral agreements which basically achieve the same result.

There is also an association agreement between EU and Turkey since 1963 which is a kind of a customs union. This country has rather close or even the closest position to the EU and it is because of Turkey is still negotiating the potential future accession to the EU.

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