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DIGITALIZATION AS A GUARANTEE OF THE RIGHT TO ENVIRONMENTAL INFORMATION

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Annotation. The article is devoted to the study of the legal framework for the use of information technologies as a component of the legal mechanism for realization of the right to environmental information. The author notes that in forming the legal framework for digitalization of environmental relations, the need to use digital technologies to create conditions for universal accessibility of environmental information and to raise environmental awareness is crucial. The author emphasizes that digitalization is at the same time a guarantee of the constitutional right of citizens to have access to information on the state of the environment.

A systematic analysis of the legal provisions which form the basis for the digitalization of environmental impact assessment and strategic environmental assessment and which serve as guarantors of the right to environmental information is carried out.

The author emphasizes the need to improve the State system of environmental monitoring and information support of public administration.

The article examines the service of recording the facts of environmental damage caused by emergencies, events, and armed aggression of the Russian Federation “EcoThreat”, which aims at recording the facts of environmental damage to the environment not only for prompt response, forecasting, management decision-making, reporting and planning regarding the recorded facts of environmental damage, as well as to ensure that citizens can exercise their rights in terms of free access to up-to-date information on recorded facts of damage to the environment as a result of emergencies, events, and armed aggression of the Russian Federation.

It is summarized that the significant potential of digital technologies for social development is important for ensuring public access to the environmental sphere, expanding cooperation of civil society with public authorities and business, opening up new opportunities for the realization of environmental rights and meeting the environmental needs of citizens, and ensuring an improvement in the quality of the environment and the range of public services.

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Problem statement. The digitalization of environmental relations is aimed at introducing digital technologies to optimize environmental management and increase the effectiveness of environmental protection measures. It includes the use of various digital tools and technologies, artificial intelligence for monitoring and collecting data on various aspects of the environment, analysis and forecasting to process large amounts of information and predict trends in climate and ecosystems, to create electronic systems for effective management and monitoring of waste management, the use of a network of connected devices for interaction and information exchange between environmental objects, use of green energy technologies to support renewable energy sources and energy efficiency, and use of digital technologies such as blockchain. The digitalization of relations in the field of ecology in Ukraine has gained significant momentum, which, in turn, affects the determination of the main directions of national environmental policy and the updating of the mechanism for exercising environmental rights.

The **purpose** of the article is to provide a comprehensive analysis of the legal framework for the use of information technologies as a component of the legal mechanism for realization of the right to environmental information.

The **state** of the art. The issues of the concept and content of the right to environmental information have been studied in the works of leading Ukrainian scholars, in particular, O. Andrusevych, A. Hetman, P. Kulynych, N. Malysheva, H. Moroz, N. Kobetska, E. Pozniak, S. Romanko, T. Tretiak and others. Given today's realities, the status and prospects for the development of legal support for the implementation of the right to environmental information through its digitalization require a separate study.

Summary of the main material. The digitalization of environmental relations has been defined as a general strategic state priority in a number of programmatic acts. Thus, the Concept for the Development of the Digital Economy and Society of Ukraine for 2018-2020 and the approved action plan for its implementation, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 67-p of January 17, 2018, provide for the following, The following initiatives in the field of environmental protection and environmental safety were identified as priorities: creation of electronic registers of natural resources to provide government agencies and citizens with information during discussion and decision-making on the management of natural resources; creation of an analytical system that integrates into the European online system of common environmental infrastructure to analyze trends in biodiversity, environmental pollution, development of ecosystems, as well as for planning measures to prevent harmful changes; stimulating the creation of digital mobile applications for environmental "patrolling" of natural resources by the public and business, which would allow them to alert law enforcement agencies about illegal behavior.

The emphasis on the digitalization of environmental relations is placed in a special act – the Basic Principles (Strategy) of the State Environmental Policy for the Period up to 2030, approved by the Law of Ukraine № 2697-VIII of February 28, 2019. According to the Strategy, the expected result of the first stage of implementation of the state environmental policy (by 2025) is to stabilize the environmental situation by improving environmental accounting and control systems, introducing e-government, and informatization of environmental protection and nature management at all levels.

When forming the legal framework for the digitalization of environmental relations, the need to use digital technologies to create conditions for the general availability of environmental information and raise environmental awareness is crucial. Digitalization is at the same time a guarantee of the constitutional right of citizens to access information on the state of the environment.

Although the state currently has various tools for effective environmental policy, in particular, the consolidation of regulatory prescriptions in the form of compulsions and prohibitions that set restrictions on the use of natural resources for their protection and reproduction, comprehensive environmental monitoring, supervision and control in the field of environmental protection, rational use, reproduction and protection of natural resources. However, it is important to develop legal norms that would ensure the creation of conditions for transparent and accessible public participation in environmental information.

This, in turn, will facilitate the adoption of effective environmental management decisions, as well as create opportunities for the realization of environmental rights, meeting the environmental needs of citizens, and expanding the ways in which civil society cooperates with government and business. Digitalization plays an important role in achieving this goal.

The program “Rebuilding a Clean and Protected Environment”, which is envisaged in the draft Recovery Plan of Ukraine, presented by the Government of Ukraine at the International Conference on the Recovery of Ukraine “Ukraine Recovery Conference” (Lugano, Switzerland, July 4-5, 2022), identifies the digitalization of the environmental sector as one of the main tasks to be implemented to overcome the inefficiency of public administration in the field of environmental protection and natural resources management, and among the list of projects designed to ensure the achievement of European standards of public administration in the field of environmental protection, such as the implementation of the Unified Environmental Platform “EcoSystem” are identified. [1, p. 57–68]

Today, this nationwide automated environmental information and analytical system for management decision-making and access to environmental information and its network, the EcoSystem, is successfully operating, providing administrative and other public services in the field of environmental protection, and is constantly being improved. It currently contains 21 active services and 11 more are under development. According to the platform’s official website, more than 54,800 environmental documents have already been issued through

the EcoSystem. Among the most popular services available on the platform are: strategic environmental assessment of state planning documents – 992; contract for the provision of services for public discussion in the process of environmental impact assessment – 424. [2]

However, the full-scale armed military invasion of Russia has affected information subjective capacities, particularly in the field of ecology. Thus, in order to ensure the proper functioning of information, information and communication and electronic communication systems, public electronic registers owned (held) and/or administered by ministries, other central and local executive authorities, state and municipal enterprises, institutions, organizations belonging to their management, and the protection of information processed in them, as well as the protection of state information resources, the Cabinet of Ministers of Ukraine of March 12, 2022, № 263 “Some Issues of Ensuring the Functioning of Information and Communication Systems, Electronic Communication Systems, Public Electronic Registers under Martial Law”, it was possible to suspend and restrict the operation of information, information and communication and electronic communication systems, as well as public electronic registers. In this context, an order of the Ministry of Environmental Protection and Natural Resources of Ukraine restricted access to the Environmental Impact Assessment Register. Due to different interpretations of the content of the measures taken, this has led to a restriction of the constitutional right to free access to information on the state of the environment. Therefore, despite the resumption of the registry, this situation requires up-to-date developments to avoid possible violations in the future, but the procedure should be rationalized so as not to harm the interests of the state and national security. As Prof. V. Nosik rightly notes, under the legal regime of martial law, the issues of conducting scientific research on war-related problems of ensuring the right to a safe environment for life and health both during the period of martial law and after its lifting or termination are becoming more relevant. [3, p. 107]

Under martial law, a number of important acts were adopted to ensure public access to environmentally significant decision-making using digital technologies. They laid down the legal framework for creating new and improving existing digital tools.

In order to implement the principles of digitalization of the permitting procedure, as well as to reduce the timeframe for the environmental impact assessment procedure (hereinafter referred to as EIA) and reduce the discretionary powers of the authority in making decisions within the procedure, the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Improving and Digitalizing the Environmental Impact Assessment Procedure” № 3227-IX of July 13, 2023 was adopted. Important measures to increase the level of environmental awareness include the so-called subscription to the Unified EIA Register for targeted notification of information and documents published therein, the beginning of communication (notification of the intention to carry out the planned activity and EIA) between the business entity and the authorized territorial body is carried out by filling out a

form of notification of the planned activity subject to EIA, by means of the Unified EIA Register, as well as by means of other information and electronic communication, as well as by means of other information, electronic communication, information and communication systems; submission of the EIA report by the business entity in electronic form; introduction of electronic forms of documents (notifications, announcements) to be filled in directly through the user account of the EIA Register.

This Law contains a number of provisions guaranteeing the right to environmental information. They can be divided into several groups. First, there are provisions that expand the list of ways to inform the public in the EIA procedure. These ways may include: 1) posting on the website of the Unified EIA Register, 2) targeted mailing, 3) publication on the official websites of district state administrations and on official websites, 4) publishing on the notice boards of local self-government bodies of territorial communities that may be affected by the planned activity (by posting in at least three public places in the territory where the planned activity is planned to be carried out and in all settlements that may be affected by the planned activity), 5) publication in the print media determined by the business entity, the territory of distribution of which covers the administrative-territorial units that may be affected by the planned activity), 6) placement of the EIA report and other documentation on the planned activity provided by the business entity during the entire period of public discussion in places accessible to the public in the premises of the authorized body, local self-government bodies of territorial communities that may be affected by the planned activity, in the premises of the business entity and, additionally, placement in other public places determined by the business entity, 7) another way (district state administrations and local self-government bodies may additionally publish documents and information in another way, which, together with other methods of informing, will guarantee that the information is brought to the attention of residents of the respective administrative units). Secondly, the rules that define the ways of providing public access to EIA reports and other documentation provided by the business entity on the planned activity: posting physical copies of EIA documentation throughout the entire period of public discussion 1) in places accessible to the public at the premises of the authorized body, local self-government bodies of territorial communities that may be affected by the planned activity, 2) at the premises of the business entity and, 3) additionally, placement in other publicly accessible places determined by the business entity.

The public is provided with the opportunity to make copies (photocopies) and extracts from the said documentation, as well as the opportunity to familiarize themselves with the information at the place of placement. The Law also provides for a mechanism for obtaining such copies - "The business entity shall provide the requestor with printed copies of the EIA report and other documentation free of charge within two days from the date of receipt of the relevant written request from the public."

Third, the possibility of holding public hearings as a form of public discussion via videoconference is introduced. The use of this mode is determined by the number of people who have registered to participate in public hearings (less than ten people) and as a temporary restriction for the duration of martial law. The rule on the quantitative determinant of the regime is debatable, as such a condition may become a “procedural filter” that will allow not to hold public hearings in cases where there is no public interest at all (the interest of one person, expressed in the form of registration for public hearings, is a sufficient indicator of public interest), is a sufficient indicator of public interest to schedule such hearings) and at the same time may lead to abuse by the EIA body and will clearly not facilitate a broad public discussion, especially in communities that are not particularly progressive in terms of digitalization, with the addition of a material (level of technology for connection) and psychological factor (“no fear of the camera”).[4, c. 4]

In the context of the implementation of the Recovery Plan of Ukraine, the project to improve the EIA procedure is a good idea to integrate the EIA register into the Single Portal of Public Services (SIP), providing opportunities for the public to submit proposals and comments on the documentation during the EIA procedure through the SIP application.

A legislative innovation that will serve as a guarantee of the right to environmental information is the creation of the Unified Register of Strategic Environmental Assessment (hereinafter referred to as SEA). The basis for this is laid down in Article 9-1 of the Law “On Amendments to Certain Laws of Ukraine on the Procedure for Conducting SEA” of November 3, 2022, № 2717-IX.

Part 4 of Art. 12 of the SEA Law defines the following forms of disclosure of information on the SEA to enable public participation in the SEA procedure (notice of publication of the application for determining the scope of the SEA, draft state planning document and SEA report) as posting on the official website of the customer, and in rural areas – also in at least three public places (on the bulletin boards of local self-government bodies, social and cultural facilities, at permanently equipped bus stops, in places designated and equipped by local self-government bodies, and in other places of mass gathering of the population), and entering it into the Unified Register of CEOs.

While noting the progressive nature of such innovations, it should be borne in mind that, firstly, even in the modern digital age, Ukrainian society does not use digital technologies to the fullest extent, and the conditions for participation in environmental governance should be provided for everyone on an equal footing, and only a small part of the population monitors official government websites, so additional forms of notification of the start of the SEA procedure should be provided to ensure that a larger number of people are aware of it, Therefore, additional forms of notification of the start of the SEA procedure should still be provided to ensure that more people are aware of it, Secondly, given the nature and amount of information contained in the notice of publication of the draft state planning document and the SEA report, it is not convenient to read it from a stand in a public place, such as a public

transport stop. Since the purpose of digitalization is to facilitate access, not to narrow the opportunities of citizens, it is advisable to retain print media as a form of publication despite the modern methods of informing.

Legislative provisions guaranteeing the mandatory consideration of public comments and suggestions are important. For example, the Unified SEA Register contains a certificate of public discussion, which summarizes the comments and suggestions received and indicates how the state planning document and the SEA report take into account the comments and suggestions. Objectivity and completeness of consideration of comments is intended to be ensured by the provision on such annexes to the certificate as minutes of public hearings (if held) and written comments and suggestions received.

Broad public involvement in the SEA is an important guarantee of both balance and efficiency of decision-making and their subsequent coordinated implementation. While noting positive innovations, work should continue to improve the SEA procedure.

A separate task in the Recovery Action Program is to adopt a legislative framework to improve the state environmental monitoring system, information support for public administration, and public awareness.

As T.V. Yermolaeva rightly argues, environmental restoration, which should be the focus of all efforts, is impossible without prior qualitative monitoring of its condition and forecasting of future changes. [5, p. 198]

The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the State System of Environmental Monitoring, Information on the State of the Environment (Environmental Information) and Information Support for Environmental Management” (to enter into force 6 months after the date of lifting or termination of martial law) of March 20, 2023 is aimed at creating legal conditions for information support of management decision-making, ensuring data transparency and exchange of information on the state of natural objects, as well as other information needs of environmental management through the use of modern information technologies.

The Cabinet of Ministers of Ukraine approved the Concept of the State Targeted Environmental Monitoring Program dated July 7, 2023, № 610-p, which defines the main goal of the program as the development of an integrated environmental monitoring system, increasing the efficiency of its functioning to maintain environmental balance in Ukraine, and ensuring the constitutional right to a safe environment. [6]

Already during the full-scale Russian invasion, the service for recording the facts of environmental damage caused by emergencies, events, and armed aggression of the Russian Federation (hereinafter referred to as the “EcoThreat”) and the functional module “EcoSystems” were introduced. It is aimed at recording the facts of environmental damage to the environment for prompt response, forecasting, management decision-making, reporting and planning on the recorded facts of environmental damage, and to ensure that citizens can exercise their rights to free access to up-to-date information on the recorded facts of environmental damage as a result of emergencies,

events, and armed aggression of the Russian Federation. “EcoThreat” provides for the submission of electronic appeals regarding the detected facts of damage to the environment as a result of emergencies, events, and armed aggression of the Russian Federation.

Conclusions. Given the significant potential of digital technologies for social development, it is important to use them to ensure public access to the environmental sphere, expand cooperation between civil society and government agencies and businesses, which will open up new opportunities for the realization of environmental rights and meeting the environmental needs of citizens, improve environmental quality and expand the range of public services. At the same time, the current state and post-war recovery of Ukraine will require the integration of a digitalized environmental block into plans, programs and other state planning documents related to the restoration of the state.

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