

JUDICIAL BODIES AS SUBJECTS OF THE PROTECTION OF THE RIGHTS OF CITIZENS OF UKRAINE TO A SAFE ENVIRONMENT FOR LIFE AND HEALTH IN UKRAINE: ADMINISTRATIVE AND LEGAL ASPECT

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Annotation. *The article analyzes the human right to an environment safe for life and health, the administrative and legal status of judicial bodies as subjects of protection of the right of citizens to an environment safe for life and health, modern tools of the activity of judicial bodies as subjects of rights protection citizens in this area.*

The aim of the work is to investigate the current state and directions for improving the effectiveness of judicial bodies as subjects of administrative and legal protection of the right of citizens to an environment safe for life and health.

The methodological basis of the study includes general scientific and special research methods, in particular the method of system analysis, structural-functional, formal-legal and others.

The article emphasizes that the complex and extensive system of judicial bodies directs its activities to protect the environmental rights of Ukrainian citizens from illegal legal acts, decisions, actions (inaction) of state bodies, local self-government bodies, other bodies, officials, and civil servants; to protect the environmental rights of Ukrainian citizens from encroachments in the form of administrative offenses, from encroachment on the environmental rights of citizens, etc.

The article examines typical problems of ensuring citizens' access to justice on issues of environmental protection.

Results. *It is recognized that in modern conditions, it is necessary to improve the administrative and legal status of judicial bodies as subjects of protection of the right of citizens to an environment safe for life and health in Ukraine, and to strengthen judicial control in the environmental sphere.*

Conclusions. *It is appropriate to state that the development of administrative and legal protection of the right of citizens to an environment safe for life and health is connected with the implementation of standards of good governance recognized in Europe, including legality and transparency of the decision-making process, open access to information, perfect administration, effective financial and budget management, control, supervision, responsibility. It is important in modern conditions to improve both material and procedural administrative legislation, review administrative procedures, and institutional changes, which in general should be aimed at transforming judicial bodies into important subjects of the implementation of the human rights function regarding the right of citizens to safe life and health environment, whose functioning is based on the ideas of people-centeredness and the priority of protecting the rights and interests of the individual.*

Key words: *judicial bodies, environment safe for life and health, human rights, protection of human rights, legal responsibility, judicial control.*

1. Introduction.

Guaranteeing the right to an environment safe for life and health in Ukraine requires significant efforts of the state in general and judicial bodies in particular in the field of ensuring strict compliance with environmental legislation, protection of human environmental rights, bringing those responsible for environmental offenses to justice, restoration of violated environmental rights and legitimate interests a person Administrative law, thanks to the existing wide system of administrative-legal regulators of social relations, is able to create a reliable basis for protecting the right of citizens to an environment safe for life and health and solving many environmental problems in general. It is necessary to look for new resources, means to overcome negative trends in the ecological sphere. Therefore, today it is extremely important to study the current state and directions for improving the effectiveness of judicial bodies as subjects of administrative and legal protection of the right of citizens to an environment safe for life and health.

2. Analysis of scientific publications.

Certain important aspects of the protection of human rights to a safe natural environment were highlighted in the scientific works of such authors as. Zharovska I., Lychenko I. [1], Kent A. [2], Mushonga T. [3], Roldan AM; Restrepo C and Vasquez JE [4], Heller DL. [5].

Despite the extensive scientific output of these authors in the researched field, the issue of a comprehensive study of the activities of judicial bodies as subjects of administrative and legal protection of the right of citizens to an environment safe for life and health remained outside their attention.

3. The aim of the work.

The article is devoted to highlighting the current state and directions for improving the effectiveness of judicial bodies as subjects of administrative and legal protection of the right of citizens to an environment safe for life and health.

4. Review and discussion.

Life and health are inextricably linked with the state of the environment and the protection of the right to a safe environment for life and health. Despite the problems that have developed over the past decades: the threats and consequences of war, the use of dangerous technologies in production in Ukraine, the high concentration of environmentally hazardous industries in certain regions of the country, the lack of modern environmental protection systems, treatment facilities, and waste processing plants, other new threats to the right of citizens to safe for the life and health of the environment, caused by the political situation in the country, the imperfection of the updated system of public-management relations.

The updated administrative and legal protection of citizens' right to a safe natural environment should be complemented by a set of effective means. It is time to expand the capabilities of judicial bodies to maintain the state of protection of the ecological and legal capabilities of the population, administrative and legal provision of the environment that is safe for life and health.

The activity of judicial bodies should become an effective administrative and legal guarantee of ensuring the protection of the ecological and legal opportunities of citizens, a safe state of the environment, reflect updated legal mechanisms for the effective resolution of new environmental problems, overcoming negative factors affecting the functioning of public administration bodies in ensuring the right to safe for life and health of the environment.

The strategic task of the state is to establish a clear mechanism of judicial control over public administration bodies to ensure the right to a safe natural environment, the functioning of courts in the area of bringing

responsibility for the use of environmentally dangerous technologies, updating the legal institution of legal responsibility for environmental offenses.

Increasing the effectiveness of judicial bodies as subjects of administrative and legal protection of the right to an environment safe for life and health requires the determination of ways to solve existing environmental problems.

One of the most important tasks of any civilized state is the protection of the state-guaranteed rights, freedoms and legitimate interests of individuals, in particular the right to a safe environment for life and health in Ukraine.

The most important role in this area is played by the activities of judicial bodies, in particular, in the administration of justice, the implementation of judicial control to ensure strict compliance with environmental legislation, and the protection of human environmental rights.

The administrative-legal status of judicial bodies as subjects of protection of citizens' right to an environment safe for life and health in Ukraine is determined by a set of administrative-legal features that determine the place of judicial bodies in the system of environmental legal relations, determine the target, organizational, and competent ability to implement protection the rights of citizens to an environment that is safe for life and health, is a reflection of the rights, obligations, guarantees of activities regarding the protection of the environmental rights of citizens.

Modern tools of judicial bodies as subjects of protection of citizens' right to an environment safe for life and health in Ukraine make it possible to effectively counteract violations in the defined area and overcome a significant share of risks related to the environment.

In order to outline human capabilities in the environmental sphere, the legislator uses various terms: environmental law, the right to a favorable environment, a safe environment, etc.

According to Article 293 of the Civil Code of Ukraine, the environment includes not only the natural environment, but also the environment in which a person lives, studies, and works, which is closely related to the constitutional right to life, guaranteed by Article 27 of the Constitution of Ukraine, economic and social rights. A broad understanding of the category "environment" is defined by the Laws of Ukraine "On General Safety of Non-Food Products" dated December 2, 2010 No. 2736-VI and "On Safety and Quality of Food Products" dated December 23, 1997 No. 771/97-BP.

Environmental rights of citizens outline a certain sphere of autonomous existence of an individual, his life activities. Such environmental legal opportunities are part of the social characteristics of a person, are formed due to certain benefits in the environmental sphere, and are transformed due to the development of society. The legal obligation of other subjects in the environmental sphere always corresponds to them.

These rights are a set of legal opportunities and means aimed at meeting the needs of citizens in the field of natural resource use, environmental protection and environmental safety, a measure of possible behavior in relation to the use, reproduction and protection of the natural environment, meeting individual environmental needs and human interests and the citizen, which must be provided by the state and society.

The right to an environment safe for life and health, being a personal non-property right, is closely related to the physical person who is its bearer. Such a person cannot be deprived of this right, including of his own free will, transfer and donate such right.

This right has a certain motivating reason, a system of determining factors, that is, a motive. According to the motivational orientation, motives in general can be manifested both consciously (convictions, aspirations) and unconsciously (cravings). A person's motivational state is always conscious. It is determined by needs - the objectively characteristic aspirations of a person for living conditions and the satisfaction of life needs, aspirations to apply to state authorities for the purpose of protecting one's rights. It reflects a person's connection with the socio-moral and legal context of society's life.

In a subjective sense, the right to an environment safe for life and health must be considered as a legally guaranteed opportunity for everyone to permanently or temporarily live or be in such a

surrounding natural, man-made and social environment that does not cause harm to health, allows the use of natural and other benefits, excludes, prevents or minimizes the occurrence of negative risks of a biological, ecological, economic, social, demographic and other nature.

The object of the exercise of the right to an environment safe for life and health is the environment, which is defined in the Law "On Environmental Impact Assessment" as the life activities of people and their health, flora, fauna, biodiversity, soil, air, water, climate, landscape, natural territories and objects, historical monuments and other material objects or a combination of these factors, objects of cultural heritage, socio-economic conditions. At the same time, the safety of the environment can be revealed through the concept of "impact on the environment" enshrined in this law as the impact of any consequences of planned economic activity on the environment, including construction, reconstruction, technical re-equipment, expansion, repurposing, liquidation (dismantling) of objects, etc. intervention in the natural environment, with the exception of activities that do not have a significant impact on the environment in accordance with the criteria approved by the Cabinet of Ministers of Ukraine [6, p. 82–88].

Subjective environmental law and legal duty in this area are specific forms of realizing a person's environmental interests.

In Article 293 of the Civil Code of Ukraine, which also concerns the environment that is safe for life and health, the legislator pays special attention to the prohibition of destruction and pollution of this environment by any physical or legal entities.

Among the important things, it is mentioned about consumer products that are safe for humans (food products and household items), proper, safe and healthy conditions of work, living, and education.

It is important that, in 293 of the Civil Code of Ukraine, he emphasizes the determining role of the court regarding the possibility of stopping such illegal activity.

Legal support for the activities of judicial bodies as subjects of protection of the right of citizens to an environment safe for life and health is largely determined by the potential ability of judicial bodies to regulate social relations, to guarantee an order useful for the state and society, the development of social relations in order to maintain a safe environment for life and health environment, restoration of violated individual rights in this area.

The Code of Ukraine on Administrative Offenses of December 7, 1984 No. 8073-X is of great importance for the administrative and legal support of the activities of judicial bodies as subjects of protection of citizens' right to safety for life and health. Administrative responsibility is an independent type of legal responsibility and involves responsibility for violations of land, water, forest legislation, legislation on subsoil, protection of atmospheric air and animal life, environmental safety and is a powerful means of administrative and legal support for the activities of judicial bodies that consider cases in this area, as subjects of protection of citizens' right to an environment safe for life and health in Ukraine. Chapter 7 of the Code of Ukraine on Administrative Offenses contains more than 60 types of environmental offenses, as well as defined administrative responsibility for committing administrative offenses.

Decisions of the ECtHR form judicial practice, according to which it is recognized that environmental pollution is the cause of violation of the basic rights of citizens, such as the right to life, to respect for private and family life. The most typical problems of ensuring citizens' access to justice in matters of environmental protection are: non-compliance with the terms of consideration of cases; significant legal costs (duty in property lawsuits, payment of expertise and expert services, payment of legal aid); lack of opportunity to obtain qualified legal and expert assistance; insufficient awareness of judges about legislation in the field of environmental protection (especially international agreements) and about the rights of citizens and non-governmental organizations in this area; "narrow" procedural legal capacity of the public (especially in the context of opportunities for the public to challenge violations of environmental legislation in court and file lawsuits to protect the interests of an unlimited number of persons) [7].

A complex and extensive system of judicial bodies directs its activities to protect the environmental rights of Ukrainian citizens from illegal legal acts, decisions, actions (inaction) of state bodies, local self-

government bodies, other bodies, officials, and civil servants; to protect the environmental rights of Ukrainian citizens from encroachments in the form of administrative offenses, from encroachment on legitimate, expedient from the point of view of the citizen environmental rights of Ukrainian citizens, etc.

Judicial protection is aimed at preventing, stopping any violations of the environmental rights of Ukrainian citizens, bringing the culprits to justice and compensating for the damage caused, and at the same time acts as the main guarantee of the protection of the legitimate interests of citizens, a legal guarantee of their realization. The court is an instance capable of directing the activities of citizens, the state, authorities and officials in the environmental sphere in a legal direction.

Judicial protection of the environmental rights of Ukrainian citizens manifests itself as a socially oriented activity related to the detection of facts of illegal actions related to the creation of obstacles to the legal exercise by citizens of their legal opportunities of an environmental nature, etc.

The directions of the court's human rights protection influence are very diverse. The court can recognize a person's right, stop actions that violate a person's right to a safe environment for life and health, restore the situation that existed before the violation of a person's environmental right, oblige to take certain actions to ensure the realization of a person's right to a safe life and health of the environment, to oblige to compensate for the damage, to recognize as illegal the decisions and actions of the public administration body that prevent the realization of environmental rights, etc.

Implementation of the administrative-legal status of judicial bodies as subjects of protection of citizens' right to an environment safe for life and health is complicated by the specifics and shortcomings of current environmental legislation and the practice of its application.

The specificity is that the role of citizens in the process of initiating legal protection is not marked by activity, unlike the protection of property rights, social rights of citizens, etc. In most cases, the protection of citizens' right to an environment safe for life and health requires the intervention of law enforcement and law enforcement agencies [8].

In today's conditions, it is necessary to improve the administrative and legal status of judicial bodies as subjects of protection of the right of citizens to an environment safe for life and health in Ukraine, and to strengthen judicial control in the environmental sphere.

Strengthening the protection of environmental rights by means of administrative law requires a comprehensive review of domestic administrative legislation, the creation of a stable basis for maintaining the state of protection of a person's legal opportunities in the environmental sphere, the formation of a system of organizational, legal and procedural guarantees of the right to an environment safe for life and health, a system of practical implementation of functional duties of judicial bodies to ensure it. Perfect rules of administrative law are an important guarantee of the protection of legal rights of a person. They are able to improve the realization of citizens' right to a healthy and safe environment, create conditions for their protection. The goal of the modern administrative-legal provision of environmental safety in our country should be the formation of a public-legal, organizational-legal, jurisdictional, administrative-delict basis for ensuring the desired state of environmental safety [1, p. 55].

In recent years, administrative law has been transformed, undergoing constant changes due to transformations of a social, economic, political, and value nature.

Modern administrative and legal norms are a reflection of the state's response to challenges and threats in modern society. The greatest influence on administrative and legal norms is exerted by general societal changes associated with the diversification of social obligations, the emergence of new or strengthening of existing threats. Environmental threats are among the latter. For example, threats to the environmental rights of citizens due to military, aggressive actions of other countries are particularly relevant.

Social changes in the modern world force administrative law to work in a new way, to regulate more and more new spheres of people's lives, to normalize those social relations that were not previously defined by administrative norms. Such a diversification of the sphere of influence of administrative law

leads to the need to strengthen the protection of human rights, to develop new administrative and legal instruments capable of counteracting possible threats and challenges, to guarantee safe conditions for the implementation of new forms of life in society.

There was a need for a fundamentally new attitude of the state to the problems of protecting the rights of citizens in the field of the environment, ensuring environmental safety by means of administrative law. The improvement of the modern administrative and legal provision of the rights of citizens to environmental conditions safe for life and health is connected with overcoming problems related to environmental protection, the possibility of satisfying the environmental rights of citizens, creating conditions to guarantee the safe life of the population, and the reproduction of natural objects.

The protection of human rights by means of administrative law involves the use of a wide list of administrative normative legal acts, legal norms that establish mechanisms for combating offenses, restoring the violated right, implementing administrative-procedural, administrative-procedural measures, documented and actual actions aimed at guaranteeing the unimpeded realization of rights person provided with administrative coercion.

Analysis of judicial practice on issues of public participation in access to information about the state of the environment, to justice for the protection of the environmental rights of both individual citizens and their communities shows that the legal models of public participation in the jurisdictional protection of the environmental rights of citizens enshrined in the current legislation cannot be considered effective, and therefore they need scientific understanding and discussion.

The practice of inefficient environmental protection activities at the state level led to the exacerbation of climatic changes in the world and raised the question of the need to consolidate the concept of climate human rights in national policies. Such transformations in the system of environmental rights oblige us to bring to a new level the judicial method of protecting the environmental rights of man and citizen. This means that the modern judicial system of Ukraine must be rebuilt in a new way - a quick and effective consideration of environmental disputes, which will include: 1) reasonable (from the point of view of the possibility of proving a cause-and-effect relationship) terms of consideration of cases; 2) the influence of court decisions on the further improvement of the environmental policy of the state.

One of the biggest obstacles in the fast and effective consideration of environmental protection cases in the courts today is: 1) lack of generalization of judicial practice in consideration of environmental disputes; 2) consideration of an environmental dispute using the principle of jurisdiction; 3) overloading of courts with other categories of cases; 4) lack of professional qualification of judges in consideration of environmental disputes; 5) insufficient activity of the public in matters of protection of violated environmental rights.

Improving the environmental rule of law, access to justice and the resolution of environmental disputes has become a necessary tool for achieving the UN Agenda for 2030 regarding sustainable development and the Sustainable Development Goals [9].

In today's conditions, ensuring everyone's right to access to justice on environmental issues should be considered through the prism of the Law of Ukraine "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period Until 2030" dated February 28, 2019, which comes into effect on January 1, 2020 year. According to this law, the state environmental policy in Ukraine must be carried out on the basis of new principles of ensuring the interaction of man and nature, among which it is worth highlighting the preservation of such a state of the climate system, which will make it impossible to increase the risks to the health and well-being of people and the natural environment, as well as Ukraine's achievement of the Goals of Sustainable Development, which were approved at the UN Summit on Sustainable Development within the framework of the 70th session of the UN General Assembly in September 2015. Problems related to the judicial protection of citizens' right to an environment safe for life and health undermine the general level of trust in domestic judicial authorities and contribute to an increase in the number of appeals to the European Court of Human Rights. Ukraine ranks fifth in terms of the number of citizens' applications to the European Court of Human Rights. At the same time, the number of appeals by Ukrainian citizens to the European Court of Justice for the purpose of protecting their rights and legitimate interests is constantly increasing.

Reforming the legislation of Ukraine regarding administrative proceedings in the way of strengthening the protection of the right of citizens to an environment safe for life and health is connected with the implementation of systemic changes. These changes relate to the system of new electronic tools for technical support of administrative court proceedings, the maintenance and improvement of the “Electronic Court” system, the introduction of innovations in the field of evidence due to the expansion of the possibility of involving electronic copies of documents as evidence, and the large-scale introduction of the institute of electronic evidence into the procedural legislation.

These issues, of course, should be reflected in legislation, as they directly affect the protection of human rights.

Solving the problems of the judicial system regarding the administrative-legal protection of citizens’ right to an environment safe for life and health requires the application of systemic legal, organizational, financial and other measures. Overcoming the negative image of the judiciary, increasing the level of citizens’ trust in the courts plays a decisive role in this area.

5. Conclusions.

Modern reforms of the judicial system of Ukraine should be based on the position that effective judicial protection of citizens’ right to an environment safe for life and health is the highest measure of justice, evidence of the legal character and democracy of our state. Thus, the development of administrative and legal protection of the right of citizens to an environment safe for life and health is connected with the implementation of standards of good governance recognized in Europe, including the legality and transparency of the decision-making process, open access to information, perfect administration, effective financial and budget management, control, supervision, responsibility. At the time of improvement of both substantive and procedural administrative legislation, revision of administrative procedures, institutional changes, which should generally be aimed at transforming judicial bodies into important subjects of the implementation of the human rights function regarding the right of citizens to an environment safe for life and health, in whose functioning is based on the ideas of people-centrism and the priority of protecting the rights and interests of the individual.

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