

## INFORMATION AND LEGAL ASPECTS OF THE RIGHT OF OWNERSHIP OF UKRAINIAN PEOPLE TO BOWELS OF THE EARTH ECOSYSTEM

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*This article is devoted to the research and description of an information which are required by the citizens of Ukraine as the sole owner of bowels of the Earth recourses concerning the importance of careful attitude to natural resources, including bowels of the Earth ecosystem as a physically non-revolving component of the environmental consequences of their improper use and careless protection. Ways of informing the public by the central authorities of executive power are searched in the article.*

***Ownership of bowels of the Earth ecosystem, bowels of the earth, rational use of natural resources.***

Necessity of information and awareness about the consequences of misuse and a careless handling of the bowels of the Earth, as a special type of natural resources are key problems of the article. Bowels of the Earth are the main source of energy for the comfortable existence of society. However, damage that is caused to them as a result of commission of offenses in the sphere of subsoil use is irreplaceable for its own scope and consequences. Besides bowels of the Earth are most vulnerable because they are not protected in the environment and are characterized by a natural feature as non recoverable. Non-recoverability means that there are some types of minerals like coal, oil and others which have been created over many thousands of years therefore the process of recovery is almost impossible.

According to The Article 34 of the Constitution of Ukraine, everyone shall be guaranteed the right to freedom of thought and speech, and to free expression of his views and beliefs. Everyone shall have the right to freely collect, store, use, and disseminate information by oral, written, or other means at his discretion [1].

The above mentioned also means that citizens of Ukraine should be provided with information on the qualitative and quantitative status of

natural resources and the consequences of committing offenses in the sphere of use of bowels of the Earth not only in terms of administrative penalties as preventive, punitive and educational measures of influence on the individual offender but also on the so-called environmental factors. The above mentioned should convince and encourage the citizens into taking care for the natural resources, including bowels of the Earth, not only offenders but also another people.

Scientific researches which deal with these issues have been taken by a number of talented scientists, including I. Aristova, V. Kurylo, V. Ermolenko, V. Semchyk, Y. Shemshuchenko and others.

However, a comprehensive study of information provision the public with the consequences of violation of the rules of use and protection of bowels of the Earth, as a special type of natural resources and their impact on the general state of the environment and ecology in general have not been implemented.

The exercise of such rights may be restricted by law in the interests of national security, territorial integrity, or public order, for the purposes of preventing disturbances or crimes, protecting the health of the population, protecting the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice [1].

Objectively, the citizens of Ukraine have the right to be informed on the state of natural resources, which they are the owners and the citizens cannot be deprived of this right. After all, the citizens of Ukraine are the only full and exclusive owner of bowels of the Earth ecosystems in Ukraine. Bowels of the Earth belong to them on the right of ownership.

However, both The Constitution of Ukraine, and the below – Constitutional level of legislation do not contain a clear definition of the notion "property rights of Ukrainian people" in the civil and legal sense setting out the scope and content of the right, the way and manner in which this right shall be exercised, that is, in fact, we have no property rights of the Ukrainian people and their substitution by society uncontrolled management of natural resources on behalf of the Ukrainian people bodies of executive power and local self-government. In our view, this leads directly to major negative effects, the burden of which is definitely relied on the same Ukrainian people.

According to the Constitution of Ukraine [1] owner on their own use and dispose of property that belongs to him, all subjects of property are equal before the law, and the equality is guaranteed by the state – general

disposition, property binds, property should not be used to the detriment of man and society, land is a major national wealth and is under state protection therefore, the term «protection of land» – and thus «protection of bowels» as components of a single ecosystem, must be included within the scope of the concept of «ownership of Ukrainian people»; use of property shall not cause harm to the rights, freedoms of citizens, public interest, aggravate the ecological situation and the natural qualities of the land; ensuring environmental safety and maintaining ecological balance on the territory Ukraine; protection of sovereignty Ukraine, providing of its economic security are the most important functions of the State, a matter of entire Ukrainian people; the people is an exceptional bearer of the highest – of constituent power, has the right to exercise their powers both in format of direct as well as in form of representative democracy. This higher ownership should ensure economic safety in such way that not to violate environmental safety and ecological balance because everyone is entitled to a safe and healthy environment and to compensation for violation of this right, which is the basis of life, entrance to the formula 'Man is the highest social value».

However, the moral balance is being established – everyone has the right to use natural resources in accordance with the law and everyone is obliged not to harm nature and compensate for damage losses - hence the highest social value is the man. Article 319 of The Civil Code of Ukraine [2] actually repeats the constitutional provisions on ownership rules without decoding content of charges in connection with Article 324 – these articles exist as if they are parallel. This gave reason to believe that there is «legal dualism». From the point of view of the theory of property, rights any object, including the object of nature, may simultaneously belong to only one subject. At the same time comment on the fact that the attempt to implement provisions of Article 13 of the Constitution of Ukraine into The Civil Code of Ukraine has led to the controversial one-sided legal regulation within a single act: Article 2 of Civil Code does not mention the Ukrainian nation among the subjects of civil relations (although there is a warning «and others») and Article 318 recognizes it as the subject of right of ownership is fair. Meanwhile, Article 319 of The Civil Code of Ukraine regulates: «Specifics of ownership of cultural values shall be established by law». This norm has been actually transferred from the law «On Property», which was accented by «special legislation». Opportunely along with this norm in the law there is a warning that the Civil law regulates relations which are not covered by this Law. As a result, we have a problem with the

separation of administrative and civil law, and consequently with the jurisdiction of the courts in such disputes since they are advocated by opponents as «private-law nature» in the sphere of land, property, use of natural resources relations, where one of the parties is the body of administrative jurisdiction.

The issue concerning ownership of the resource that has been created (extracted, covered etc.) as a result of the use of mineral resources: therefore as long as minerals are deposited directly into the depths, they are subject of ownership of Ukrainian people (like underground storage of oil and gas), but when they are get outside, the owner is changed, and the right of people are automatically lost. This position is not entirely logical, and we cannot accept as arguments the thesis of O. Shem'yakova about losing of bowels of the Earth connection with the environment after their extraction, since they are no longer the object of the environment [3, p. 41–42]. The property aspects should also be taken into account: distribution rights to all aspects of the object of law, loss (destruction, depletion of the recourse) customer value after their separation without significant benefits for the Ukrainian people non-recoverability of the resource deformation of bowels of the Earth as well as its ecosystem with unpredictable catastrophic consequences for generations of the same Ukrainian people. Neither CUAR [4] nor the input range of sectoral laws explain the notion «the right of use of bowels of the Earth» neither as an actual property right nor as cumulative ownership (maintenance) and use which is already mortgaged maintenance of requirements provided in good subsoil (safe) state. Consequently and notionally, the notion «protection of natural resources» is not explained; it is reduced to the protection of ground and hired workers within the subject matter of profit, and environmental protection (including the life of the communities in the affected area); it is closed with stamp «other requirements of environmental protection legislation». Example of «necro use» of mineral resources that is providing mineral resources for the disposal of waste and other hazardous substances, waste water, and the population of Ukraine must be informed about it. Having contented with general declaration in the format of legal uncertainty «Permitted in exceptional cases under compliance with rules and requirements of the law of Ukraine» including those which are based on the projects which have been commissioned by concerned entities, CUAR actually avoids this issue. For example, if the interested party is authorized to order special research on their own, it will affect their progress and promote the effective

decision in their favor, and as a result the principle of impartiality are leveled. Consolidation of the subsoil «exclusive right» of Ukrainian people, accordingly obliges the state, which is its (Ukrainian people) representative and assumes the function of a manager of natural resources report to the Ukrainian people on the number deposits of the bowels of the Earth that have been leased, legitimacy and objective necessity of committing these actions, public awareness regarding the use of the bowels of the Earth ecosystems from the standpoint of not only the property of the Ukrainian people, but also in terms of their objective non-recoverability in the environment, and information on the number of crimes committed in this area and the consequences they cause. This thesis is especially important in view of the fact that having committed this type of offense, person actually acts against property of Ukrainian nation, thus causing irreparable damage to nature.

In our opinion, at present it is particularly important to exercise systematic information of society – as the sole owner of the natural resources about the state of the environment and the availability of committed offenses connected with the improper use of the resources of the bowels of the Earth and protection from pollution and depletion, as an example of actions that lead the country to ecological collapse that can consequently have a wide range of negative effects of human exposure. Because the human being, his or her life and health are recognized as the highest social value. Duty to inform the public about the facts of the past offenses that resulted in negative environmental effects, non-recoverability of the bowels of the Earth as natural objects should be put on the Ministry of Environment and Natural Resources as the central body of executive power in this sphere, which shall monitor status of natural resources and environmental conditions in the country and ensure the environmental balance.

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