

LEGAL REGULATION OF PUBLIC ACCESS TO INFORMATION IN THE FIELD OF ENVIRONMENTAL PROTECTION AND USE OF NATURAL RESOURCES

Roza Yerezhepkyzy, Al-Farabi Kazakh National University
Aigul Karatayeva, Al-Farabi Kazakh National University
Guldana A Kuanalieva, Al-Farabi Kazakh National University
Bahytkul M Konysbai, Al-Farabi Kazakh National University
Dinara A Azhinurina, Kazakh Academy of Labor and Social Relations

ABSTRACT

The paper studies the aspect of ensuring the equilibrium state of the environment. And one of the components of providing such a state is information about the state of the environment in question. The authors note that the aspects of such information's importance are fully disclosed. Its theoretical construct is defined, and an idea is formed about which sector the information of the ecological type is most relevant to a civil or a specialized ecological one. The subject of the study is information that relates to the ecological state of the natural environment, as well as to the human environment. Legal systems of the post-Soviet countries and the countries of North America are investigated.

Keywords: Environmental Information, Citizen Participation, Development Opportunities, Legal System, Access to Information, State Provision, Information Security.

INTRODUCTION

According to the evolution of development, human rights are divided into: The rights of the first, the rights of the second and the rights of the third generation, depending on the historical era of society. However, in modern legal literature, there are ideas about the possibility of assigning the rights of mankind to a separate group of rights, in particular environmental rights (Kwon, 2016). In this context, the position of Eck deserves attention, which emphasizes that it is necessary to distinguish between the notions of "citizens' rights in the field of environmental relations" and "environmental rights of citizens". She believes that the second concept is much narrower than the first. The citizens' rights in the field of environmental relations cover all their powers, which are related to the natural environment, natural resources in one way or another (Eck, 2016). In general, environmental rights are a qualitatively new group of human and citizen rights that differ from the rights of nature management, primarily, by the focus on the satisfaction of ecological, environmental, but not material, spiritual, aesthetic needs and interests.

In the science of environmental law, the human right to environmental information was reflected in the writings of scientists of a predominantly ecological nature (Todd & Brighton, 2016). Historically, the idea of environmental rights was first reflected in international legal instruments. International Covenants on Human Rights contain proceedings, which can be conditionally transformed into environmental rights of citizens.

Human is an integral part of nature, therefore his activity should be carried out in close harmony with the requirements of the laws of nature and obey them (Stan, 2017). Only on this basis can the degradation of the natural environment be avoided and not disrupt the functioning of mechanisms reproducing natural life foundations (de Castro, 2016). More than half a century ago, Vernadsky wrote: "Man first realistically comprehended that he is a resident of the planet and can should think and act in a new aspect, not only in the aspect of the individual, the family or the kind, states or their unions, but also in the planetary aspect".

The purpose of the article is to study: The concept of "environmental information", its features and species, as well as the features of environmental and legal relations in the sphere of determining the right to environmental information; the essence of the concepts "the right to environmental information", its content, sources, subjects of the realization of this right and the mechanism for its implementation, enshrined in the current legislation; determine the features of access to environmental information as public information about the state of the environment, the delineation of environmental information from commercial information.

COMPONENTS OF PUBLIC ENVIRONMENTAL REGULATION

Some components of public environmental regulation have a long history (Lee, 2017). In particular, Karel van der Sveep points out that the Swedish legal system in the 18th century already contained norms that can be attributed to public participation. There are similar examples in the history of previous periods: In the middle Ages or even earlier from the thousandth year of our era (Pedersen & Bang, 2016). The people who lived in the "lowlands" (Holland, Denmark, Germany) were in constant state of war with the sea (Devictor & Bensaude-Vincent, 2016). Therefore, they had to deal with land reclamation, increasing the number of arable land, building dams and controlling the water level according to actual demand (Yeh, 2016). The erection of dams requires management and regulation, and the oldest rules known to us are referred to by 1100 AD. These were the so-called Rustringer Rules of Law, which directly attracted the local population to the solution of these issues. This kind of direct involvement of the public still exists in the Netherlands (Ge, 2017).

However, such participatory mechanisms have mostly only touched on environmental issues (Bharti & Singh, 2017). The conservation of natural resources and the protection of the environment have only recently begun to be included in social systems (Craig, 2016), drawing attention to environmental problems, increasing public awareness and responsibility (Carter, 2017). Civil society is being transformed under the influence of global processes; its activities are beginning to emerge on a qualitatively new, global level (Xu, 2016). A new social and political entity, global civil society is being formed. (Fang, 2016).

A surge of environmental activism around the world over the past 25 years has appeared within the impressive reports of the Rome club and the fateful international environmental forums (Haynes & Leone, 2017), the development of dozens of local, regional and international programs for the conservation and restoration of natural resources, landscapes, territories and water areas, the development of environmental education, the emergence of numerous environmental materials in the media, the emergence of hundreds of "green" movements and organizations all over the world (Jaganathan, 2016).

One of the main elements of the global civil society is non-governmental organizations, including environmental organizations (Kang, 2017). That is why the activities of environmental organizations should be viewed not only from a purely ecological but also from a legal aspect

(Kogalovsky & Parinov, 2016), since the number of such organizations and the quality of their activities indicate the level of civil society' development in the state and is regulated by regulatory acts (Raja, 2017).

ACCESS TO ENVIRONMENTAL INFORMATION LEGISLATION OVERVIEW

Sources of European environmental law include the norms of the primary law, secondary law norms, case law, international treaties or the so-called tertiary or supplementary right. All sources of European law are linked by a hierarchical system in which the sources of primary law are vested with the supreme legal force. On the basis of the primary law, the organs of the European Union adopt norms of secondary law. Relatively independent groups are the rules of case law and international treaties. The European Union and the European Communities act on the basis of constituent treaties that have been elaborated and signed by Member States on the basis of international law. Nevertheless, their provisions concern not only the Member States, but also their citizens. The norms enshrined in the constituent treaties and in the treaties that supplement them are called the primary law.

Norms relating to environmental protection, enshrined in the Treaty establishing the European Community, mainly in section XIX "Environment". Here, the purpose, principles, forms and methods of action of the European Community are defined when creating and implementing their policies in the field of environmental protection. Article 175 also defines the obligations and powers of certain bodies of the European Union in the implementation of policies in the field of environmental protection. The provisions of the section "Environment" are supplemented by the provisions of art. 95 of the Treaty on the Establishment of the European Community by the norms enable the Community to implement measures to bring together the environmental legislation of the Member States.

As a rule, decisions concern specific, narrow, mainly technical issues and are mandatory only for those subjects of European law that they address. They are used to clarify detailed administrative requirements or update the technical aspects of the regulation or directive. The addressee is not necessarily the state it can be separate categories of legal entities or specific legal entities. For example, the European Commission has adopted a number of decisions regarding the EU's environmental labeling for various products. As a general rule, decisions are communicated to those subjects of European law that are directly concerned, and come into effect from the date of notification to the party to whom they are addressed.

The Hungarian Constitution of 1945 establishes the right of everyone to express their opinion freely receive and disseminate information that constitutes public interest. The freedom of the press is acknowledged and protected (paragraph 2 of Article 61). Particularly important for the protection of these provisions is paragraph 1-3 of this article, according to which, the adoption of a law regulating the publicity of data of public interest and which concerns freedom of the press requires at least two-thirds of the votes of the present members of the National Assembly.

The Polish Constitution provides for everyone's freedom to express their views, as well as to receive and disseminate information. Censorship of the media, as well as the granting of concessions for the publication of press is prohibited. Article 74 of the Polish Constitution grants everyone the right to receive information on the state and protection of the environment.

The national laws of many countries contain uniform regulatory acts (mainly laws) regulating the right of citizens to information. However, most of them concern access to

information held by public authorities. Scientists call such laws "laws on freedom of information". For example, researcher Toby Mendel notes that the model Law on Freedom of Information includes the right of the public to access information held by the authorities elected by the people and imposes on the people elected authority the duty to publish key types of information.

DEFINITION OF PUBLIC AND PRIVATE INFORMATION

American and European approaches to the definition of public and private information are different. Disputes between the Organization for Economic Cooperation and Development (OECD) and the United States on this issue continue, because the law and practice of the United States in the protection of personal data do not comply with the principles of the OECD and the standards of the European Union. In the opinion of the representatives of the United States, the Member States of the European Union do not have sufficient legislative base that reliably guarantees freedom of information.

An interesting rule on information is provided for in French law. Thus, freely obtained information in France is prohibited from being used for commercial purposes. On one hand, it is clear that this rule prevents the restriction of access to public information. On the other hand, it is quite possible to use it to restrict the freedom of information relations, because it enables the state to control the purpose of obtaining information. However, we have determined that Sweden is the country with the most established principles of freedom of information in Europe.

Separate norms of the legislation of the USA also deserve attention. Thus, the most important constitutional provision is the First Amendment to the US Constitution: "Congress will not approve of any law ... if it restricts freedom of speech or the press and the right of people to peaceful assembly to appeal to the government for handling complaints". The Fourteenth Amendment to the US Constitution comments on the application of this freedom protection in relation to each of the government structures: From Congress to local authorities. In 1966, the US Congress passed the Law on Freedom of Information, which opened new channels for reporters about the activities of the government. Under this law, they have access to government records not only public, but also those that open government operations.

International treaties form a special group of sources of European law. The international treaties establish the obligations of the European Communities, the European Union and their Member States in the international arena. The agreements signed by the Communities with third states and international organizations are external sources, the legal status of which is determined mainly by the norms of international law. International treaties of the EU are sources of the norms of two legal systems simultaneously: The international (public) law of the Community, on one hand, and the Union on the other. As a source of international rights and obligations, they connect not only the Community, but also each of the Member States.

Sometimes, when deciding to sign an international and legal document, the European Community accepts declarations concerning specific articles of conventions, agreements or protocols. For example, the decision of the Council of March 23, 1998 to sign the Convention on the Transboundary Effects of Industrial Accidents is accompanied by the European Community Declaration on Art. 29 (4) of the Convention on the Transboundary Effects of Industrial Accidents. The declaration states that the Community and the Member States are responsible for the application of the Convention in accordance with their authority.

Now the European Community is a party of about 45 international and legal instruments (international conventions and agreements and protocols to them) in the field of environmental protection. These international and legal documents dealing with both the protection of the environment of a particular region (for example, the convention on the protection of the Rhine, the Danube, the Oder from pollution, the Alpine Convention, etc.) and global environmental problems (in particular, the United Nations Framework Convention on Climate Change, the Convention On the Protection of Biological Diversity, the Convention on Environmental Impact Assessment in a Transboundary Context, etc.).

German researchers have developed their own recommendations to involve the public in making decisions related to environmental risk. They are that: The communication strategy must be well structured and carefully prepared. The actual material, its interpretation, opinions and conclusions, as well as evaluations of these conclusions, should be considered and prepared separately, taking into account possible changes in the form of communication at each stage. Communication strategy should focus on dialogue. The audience should be able not only to express their opinions on certain issues, but also to participate in the preparation of the relevant program and have access to those responsible for environmental policy. In the process of comprehensive risk assessment and consistent management it must take into account the difficulties faced by those who develop and make decisions (administrators, lawyers, etc.). This implies the existence of trust in the structures of power.

CONCLUSION

In different developed countries, public access to environmental information is not the same. It is the most free in the US due to the effective operation of the Freedom of Information Act (1996). On the contrary, in the UK, Germany, and to a lesser extent in France, access to information has always been substantially limited, and only recently, under the influence of EU directives, in particular the Directive on the Freedom of Access to Information on the Environment (1990) we can observe certain changes. In general, it is possible to state that there are opportunities to create an equilibrium environment for providing citizens with environmental information for the emergence of a system of civil and democratic governance. For the Republic of Kazakhstan it should be recommended to adopt a single act that will determine not only the technical need of society to access environmental information, but also to link it with the environmentalization of society as a whole.

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