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PUBLIC CONTROL OVER THE ACTIONS OF GOVERNMENT IN THE FIELD OF RESEARCH AND RATIONAL USE OF MINERAL RESOURCES

Purpose. To reveal the legal nature, forms, and methods of public control over the actions of the state power in the field of research and rational use of mineral resources. To consider the legal mechanisms which determine public control in the particular area of the activity: the protection of mineral resources from unlawful attacks by the state and other entities.

Methodology. The authors used the structural and systemic methods, comparative and legal, historical and retrospective, as well as formal and dogmatic methods.

Findings. The control over the actions of state power requires a broader legal approach, a clearer definition of the strategic and tactical objectives of state policy tasks to form political awareness and civic activism in the public. In the work, the authors focused on the disclosure of the legal nature and establishment of the relationship between the principles of public control over the government in the field of research and rational use of mineral resources. It allowed: Clarification of the basic legal framework of public control by subordinate normative legal acts, which regulate procedural questions of basic laws, will allow to solve a number of tasks on democratization of the state administration. This allowed:

1. To clarify the basic legal framework of public control by subordinate normative legal acts, which regulate procedural questions of basic laws.
2. To propose legal mechanisms for the improvement of public control in order to increase the effectiveness of the activities of state authorities in the field considered.
3. To strengthen the influence of public control on the adoption of socially important decisions in the field of geological study and rational use of the mineral resources, as well as the protection of the mineral resources from unlawful encroachments by the state and other entities.

Originality. The authors proposed and proved two interrelated theses:

1. The effectiveness of state authority in the field of exploration and rational use of mineral resources ensures the proper public control.
2. Insufficient development of the legal nature, forms, and methods of public control is the main cause of impunity and irresponsible attitude of the government in the field of exploration and rational use of mineral resources.

Practical value. The proper public control ensures the effectiveness of government actions in the field of research and rational use of mineral resources. The proposed mechanisms for improving public control will be used in practice. The article is of importance for lawyers, political scientists, public servants who specialize in monitoring the actions of government in the field of research and the rational use of mineral resources.

Keywords: *public control, rational use of mineral resources, state power, legal culture, civil society*

Introduction. The need to protect mineral resources, as well as public control over the actions of public and private companies in the field of research and rational use of mineral resources, is an important and necessary condition for the continuous development of the economy of Ukraine. The effectiveness of state power is supported by the efficiency of public control. On the one hand, public control provides feedback between the government and society; on the other hand, it excludes the development of corruption, protectionism, inactivity, impunity and arbitrariness.

Currently, the legal basis of public control in Ukraine is provided by:

1. The Constitution of Ukraine. Part 1, Article 5 states, "The people exercise power directly and through bodies of state power and bodies of local self-government" [1].
 2. The Law of Ukraine "On Citizens' Appeals" [2].
 3. The Law of Ukraine "On Information" [3].
 4. The Law of Ukraine "On Access to Public Information" [4].
 5. The Law of Ukraine "On Public Associations" [5].
- According to V. Kravchuk, all these laws are basic. They establish the legal basis of public control and create conditions for its functioning in the state [6].

However, control over the actions of the state authorities requires a broader legal approach, a clearer definition of the strategic and tactical objectives of the state policy on the for-

mation of public political consciousness and civic activity. For this reason, the purpose of this article is to consider the legal nature, forms and methods of public control over the actions of the government in the field of research and rational use of mineral resources. We are interested in the legal mechanisms that determine public control in a particular area of public-power relations and administrative management.

From the point of view of the authors, the disclosure of the legal nature and the establishment of the relationship of the principles of public control over the state power in the field of research and rational use of mineral resources will allow:

1. Clarifying the basic legal basis of public control by subordinate legal acts that regulate the procedural issues of the basic laws.

2. Proposing legal mechanisms for the improvement of public control in order to increase the effectiveness of the activities of state authorities in the field of the use and protection of bowels of the earth.

3. Strengthening the influence of public control on the adoption of socially important decisions in the field of geological study and rational use of mineral resources, as well as the protection of mineral resources from illegal encroachments by the state and others.

Results. Z. Šimková, M. Cehlár, and H. Pavolová believe that the effectiveness of research and rational use of mineral resources is achieved as a result of a targeted raw material policy. The raw material policy [7] features:

1. Purpose of exploitation of internal mineral resources.

2. It considers the long-term needs of society in mineral resources for stable economic and social development.

3. Environmental effects of mineral resource exploitation on sustainable development, ranging from geological studies to research and use of proven reserves.

Using the example of Slovakia, Z. Šimková, M. Cehlár, and H. Pavolová considered the fundamentals of the raw material policy, as well as the role of public control over its implementation. According to the authors, the raw material policy should include [7]:

1. Analysis of internal sources of fuel and energy, ore and industrial minerals, as well as raw materials for the production of building materials.

2. Determination of rules for the protection and rational use of mineral resources of the state in accordance with the principles of sustainable development.

In contrast to the Slovak colleagues, the authors hold a slightly different point of view. Namely, the effectiveness of public authorities in the field of research and rational use of mineral resources ensures proper public control. Accordingly, the opposite statement is also true: the lack of development of the legal nature, forms, and methods of public control is the main reason for the impunity and irresponsible attitude of the state authorities in the field of research and rational use of mineral resources. Let us prove the assertions.

The raw material policy of the state and public control over the actions of state bodies depend on a number of important factors. Let us highlight the following.

Firstly, consider the state educational policy. For example, O. Bazaluk argues that education determines the basis of human activity. Education forms civil society, the degree of its activity, as well as its attitude to the natural resources [8]. Also, education forms individual and collective responsibility for the rational use of mineral resources. As a whole, education expands the individual and collective worldview to the level of awareness of the value of mineral resources as a cultural heritage. Education brings social consciousness beyond the narrow perception of mineral resources as material values and benefits from the economic growth of the state. It forms a view on the mineral resources as an element of the integrated ecosystem that provides a healthy way of life of the nation and the sustainable development of the “man-nature” system.

Secondly, the basis of the state’s raw material policy and public control over it is determined by the legal culture. O. Fatkhudinova explores the peculiarities of the influence of education on the formation of legal culture and legal consciousness in Ukraine [9]. Legal culture is the basis of public control over research and the rational use of mineral resources. It is an important component of the general culture. Legal culture forms the necessary minimum of knowledge to control the actions of public authorities in the field of geological study and rational use of mineral resources. Thanks to the legal culture, civil society manifests its activity in the legal sphere that gives this activity a system-forming, predictable, and state character.

Thirdly, educational policy and legal culture develop immunity from corruption in power, intolerance of society to protectionism and impunity of power (for example, [10]). The formation of intolerance to illegal actions of the state apparatus and its officials is an important factor in the effectiveness of the raw material policy of the state. In this case, the activity of civil society determines the main directions of the raw material policy essentially. Public initiatives, as well as control by non-state public organizations, are effective forms of civil society participation in the decision-making processes of public authorities and the local self-government. It determines the need for the use of internal sources of fuel and energy, ore and industrial minerals, as well as it determines the rules of their protection and rational use.

Let us consider the nature of public control over the actions of state power in the field of research and rational use of mineral resources.

In the article “Politically-Technological Potential of Cultural Practices in Ukrainian Perspective”, O. Pavlova reveals the political and technological potential of cultural practices [11]. Cultural practices are determined by the high degree of development of civil society and the active participation of non-governmental public organizations in the development of the state. Pavlova examined the potentials of cultural practices on the examples of the developed democratic states, and also revealed their capabilities in the emerging civil society of Ukraine [11].

Pavlova’s research expands our understanding of public control over the activities of public authorities in the use and protection of mineral resources. Social control is considered by us as cultural practices that have a high political potential. This is no longer a temporary initiative of individual citizens or public organizations. This is a political technology that not only and even not so much controls the actions of the authorities in the field of natural resources use, but determines its policy. Public control is transformed essentially into the determining force of the state’s resource policy. It initiates a raw material policy, establishes its key characteristics, and also controls its implementation.

Social control as a cultural practice is determined by the history of the culture of the state. It is an element of general culture, therefore it becomes possible to consider it in the senses of Heidegger’s fundamental ontology [12]. In this sense, the participation of civil society in decision-making processes of national importance, for example, on the scale of a raw material policy and its control, is not an episodic and accidental phenomenon, but a systematic and state-forming one.

As a cultural practice, public control turns into one of the most effective forms of civil society participation in decision-making processes by state and local government bodies. It is aimed at evaluating their activities in order to protect the legitimate interests of the people as the owner of the natural resources. Civil society initiates a raw material policy and establishes the main directions of its implementation. At the same time, with the help of the legal possibilities of public control, civil society takes an active part in making decisions that comply with the proclaimed raw materials policy, as well as in controlling the quality of state and municipal activities.

Public control as a cultural practice performs the following key functions in the state:

1. It provides openness of management processes and the ability to analyze management decisions.

2. It gives citizens access to information that is collected and stored by public authorities and local self-government.

3. It ensures the presence of representatives of civil society, public organizations at meetings of public authorities and local self-government.

4. It provides democratic decision-making procedures.

5. It guarantees the participation of independent experts in the certification of civil servants.

6. It organizes the work of public councils and consultations with representatives of civil society.

Considering the features of the development of professional level of civil servants in Ukraine, R. Naumenko pointed to another important feature of the nature of public control over public authorities in the field of rational use of mineral resources [13]. Naumenko showed how the development of culture turns into a powerful source of development of modern forms of public control. Thanks to new knowledge and accumulated experience, cultural practices increase the effectiveness of public control. They transfer it from the status of "amateur", personal initiative, to the status of professional activity. Under the influence of cultural development, the key characteristics of public control are changing:

- a) competences necessary for public control;
- b) evaluation of public control;
- c) criteria for candidates who are able to organize and exercise public control;
- d) methods of public control;
- e) structure of public organizations that exercise public control.

Considering the nature of public control, it is necessary to pay attention to the study of A. Nazaretyan. In the article "Mental Dimension in Social Causalities: Past and Future", the author proves that the role of economic and resource factors in political science is exaggerated. This entails the prediction error. Nazaretyan argues that in most historical cases, the mental content, conditions and fluctuations of mass moods, ambitions, talents of authoritative leaders and other "subjective" factors of this kind, social events determine more significantly than any external factors. Nazaretyan believes that it is the evolution of worldviews, values, and meanings that ultimately determine the viability of the state, in particular, its raw materials policy [14].

Nazaretyan's ideas confirm the study of T. Melnyk. Melnyk shows how, contrary to the logic of economic laws, the development of Ukraine over the years of independence has changed in accordance with the change in the political vector. [15]. In essence, manipulating by the emotional mood of society and hindering the formation of a civil society, the Ukrainian political elite built up the raw material policy of the state, guided by its own ambitions and assumptions. As time shows, this policy does not correspond to the culture of social development. Melnyk notes that the desire to achieve high results without significant effort leads to chaos, confusion, and discontent of the population [15].

Thus, the nature of public control examined by us indicates its system-forming character, which allows us to assert that, as a cultural practice, public control determines the effectiveness of government actions in the field of research and the rational use of mineral resources. Thus, we have proved the first thesis of our research.

The second thesis, which was put forward by us, will be proved by using the example of public control in Ukraine. We will prove that the insufficient development of the legal nature, forms, and methods of public control are the main causes of impunity and irresponsible attitude of the government in the field of research and rational use of the mineral resources.

Kravchuk V. states the absence in the current legislation of Ukraine of the unity of the content and concept of public control, securing the proper organizational and procedural regula-

tion of its implementation [6]. Kravchuk analyzes the existing legal framework in Ukraine and concludes that Ukraine does not have clear rules for exercising public control, that Ukraine has created artificial barriers to the control function of civil society [6].

The ineffectiveness of the mechanism of legal responsibility of public authorities and officials for non-compliance, untimely or improper implementation of legal requirements of the public, has a destructive impact on the rights of citizens, in particular, on the right of public control. To solve these problems, the authors propose two courses of actions:

1. To clarify the basic legal basis of public control by subordinate legal acts that regulate the procedural issues of the basic laws.

2. To focus on the formation of a qualitatively new type of personality with the necessary legal culture. Education should form a person, who is aware of his rights and obligations of a citizen who has an active civic position.

Let us consider the first course of actions: we will clarify the basic legal foundation of public control by subordinate regulatory legal acts.

One of the main reasons for the unpunished and irresponsible attitude of the state authorities in the sphere of research and rational use of mineral resources in Ukraine is the lack of development of the theoretical foundations of public control and, accordingly, their lack of consolidation in the norms of legislation. Such forms of public control as public hearings, public expertise, public participation in the work of collegial bodies under the authorities do not have legislative and procedural support actually. In fact, Ukrainian civil society is deprived of the opportunity to implement these forms of public control effectively.

Improvement and unification of legal and regulatory support of public control in Ukraine will ensure the effective functioning of this institution of interaction between society and the state. For these purposes the basic laws, that establish the legal basis of public control and create conditions for its functioning in the state, need to be clarified and expanded by laws and departmental acts. In the legal field of Ukraine such documents are available:

1. The Resolution of the Cabinet of Ministers of Ukraine "On Ensuring Public Participation in the Formation and Implementation of State Policy" dated November 3, 2010 № 996 [16].

2. The Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Facilitating the Public Expertise of the Activities of Executive Authorities", Edition of March 3, 2009 [17].

3. The Law of Ukraine "On Public Procurement" – legal regulation of public control in the field of public procurement [18].

4. The Law of Ukraine "On Prevention of Corruption" [19].

Clarification of the basic legal framework of public control by subordinate normative legal acts, which regulate procedural questions of basic laws, will allow solving a number of tasks on democratization of the state administration. In particular, it will:

1. Strengthen the participation of civil society in making important public policy decisions and monitoring their implementation.

2. Contribute to prevention or initiation of the elimination of previously committed violations of the Constitution of Ukraine, laws of Ukraine, other normative legal acts by public authorities and local self-government officials.

3. Provide observance of the rights of individuals and legal entities by public authorities.

4. Create public assessment to actions of the government in the sphere of research and rational use of mineral resources, provide interrelation between the power and the people.

5. Increase the efficiency of the government and strengthen the actions of citizens' influence on the subjects of power.

The qualitative growth of public organizations, the increase in their competence, institutional and resource capacity, the improvement of communications, the search and use of new technologies to ensure public control, will ensure the formation of a qualitatively new type of person with the necessary legal culture, i. e. it will lead to the second direction of actions which eliminate inefficiency of the mechanism of legal responsibility of public authorities in the sphere of use of mineral resources.

The authors consider that public monitoring is one of the key types of public control. By public monitoring, the authors understand a set of activities, the subject of which can be public organizations or groups of citizens who have highly developed legal culture. The purpose of public monitoring is to identify problematic issues in the activities of public authorities during implementation of their management functions.

The authors refer to the basic methods of public monitoring:

1. Analysis of the legal and regulatory framework, which regulates the activities of public authorities at all levels.

2. Study of documents, statistical indicators of activity, publications of mass media.

3. Compiling information requests to the state authorities and local self-government in order to obtain an official position of different issues in the field of geological study and rational use of mineral resources.

Conclusions.

Thus, two complementary theses are put forward and proved in the article:

1. Effectiveness of the actions of the state authorities in the field of research and rational use of mineral resources is ensured by proper public control.

2. Insufficient development of the legal nature, forms and methods of public control is the main reason for the unpunished and irresponsible attitude of the state authorities in the field of research and rational use of mineral resources.

In order to improve the mechanisms of implementation of public control, the authors propose, on the basis of their research, to supplement Article 38 of the Constitution of Ukraine, namely, by part two with the following content: "Citizens and their associations have the right to exercise public control over the activities of public authorities and local authorities, as well as municipal enterprises, institutions and organizations. The forms and mechanism of public control are established by the law".

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Громадський контроль за діями державної влади у сфері дослідження й раціонального використання надр

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Мета. Розкрити правову природу, форми та методи громадського контролю за діями державної влади у сфері дослідження й раціонального використання надр. Розглянути правові механізми, що визначають громадський контроль у конкретній сфері діяльності: охорони надр від неправомірних посягань з боку держави та інших суб'єктів.

Методика. Автори використали структурно-системний метод, а також порівняльно-правовий, історико-ретроспективний, формально-догматичний методи.

Результати. Контроль за діями державної влади потребує ширшого правового підходу, більш чіткого визначення стратегічних і тактичних завдань державної політики щодо формування у громадськості політичної свідомості та громадянської активності. У роботі автори зосередили свою увагу на розкритті правової природи та встановленні взаємозв'язку принципів здійснення громадського контролю за державною владою у сфері дослідження й раціонального використання надр. Це дозволило:

1. Уточнити базову правову основу громадського контролю підзаконними нормативно-правовими актами, що регулюють процедурні питання базових законів.

2. Запропонувати правові механізми вдосконалення громадського контролю з метою підвищення ефективності діяльності державної влади у вказаній сфері.

3. Посилити вплив громадського контролю на прийняття суспільно-важливих рішень у сфері геологічного вивчення та раціонального використання надр, а також охорони надр від неправомірних посягань з боку держави та інших суб'єктів.

Наукова новизна. Автори висунули й довели дві взаємозалежні тези:

1. Ефективність дій державної влади у сфері дослідження й раціонального використання надр забезпечує належний громадський контроль.

2. Недостатній розвиток правової природи, форм і методів громадського контролю є головною причиною безкарного та безвідповідального ставлення державної влади у сфері дослідження й раціонального використання надр.

Практична значимість. Належний громадський контроль забезпечує ефективність дій державної влади у сфері дослідження й раціонального використання надр. Запропоновані механізми удосконалення громадського контролю будуть використовуватися на практиці. Робота важлива для правознавців, політологів, державних службовців, що спеціалізуються на контролі за діями влади у сфері дослідження й раціонального використання надр.

Ключові слова: громадський контроль, раціональне використання надр, державна влада, правова культура, громадянське суспільство

Общественный контроль за действиями государственной власти в сфере исследования и рационального использования недр

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Цель. Раскрыть правовую природу, формы и методы общественного контроля за действиями государственной власти в сфере исследования и рационального использования недр. Рассмотреть правовые механизмы, которые определяют общественный контроль в конкретной сфере деятельности: охране недр от неправомερных посягательств со стороны государства и других субъектов.

Методика. Авторы использовали структурно-системный метод, сравнительно-правовой, историко-ретроспективный, а также формально-догматический методы.

Результаты. Контроль за действиями государственной власти требует более широкого правового подхода, более четкого определения стратегических и тактических задач государственной политики по формированию у обществeнности политического сознания и гражданской активности. В работе авторы сосредоточили свое внимание на раскрытии правовой природы и установлении взаимосвязи принципов осуществления общественного контроля за государственной властью в сфере исследований и рационального использования недр. Это позволило:

1. Уточнить базовую правовую основу общественного контроля подзаконными нормативно-правовыми актами, которые регулируют процедурные вопросы базовых законов.

2. Предложить правовые механизмы усовершенствования общественного контроля с целью повышения эффективности деятельности государственной власти в указанной сфере.

3. Усилить влияние общественного контроля на принятие общественно-важных решений в сфере геологического изучения и рационального использования недр, а также охране недр от неправомερных посягательств со стороны государства и других субъектов.

Научная новизна. Авторы выдвинули и доказали два взаимосвязанных тезиса:

1. Эффективность действий государственной власти в сфере исследования и рационального использования недр обеспечивает надлежащий общественный контроль.

2. Недостаточное развитие правовой природы, форм и методов общественного контроля является главной причиной безнаказанного и безответственного отношения государственной власти в сфере исследования и рационального использования недр.

Практическая значимость. Надлежащий общественный контроль обеспечивает эффективность действий государственной власти в сфере исследования и рационального использования недр. Предложенные механизмы усовершенствования общественного контроля будут использоваться на практике. Работа важна для правоведов, политологов, государственных служащих, специализирующихся на контроле за действиями власти в сфере исследования и рационального использования недр.

Ключевые слова: общественный контроль, рациональное использование недр, государственная власть, правовая культура, гражданское общество

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