



Верховний
Суд

On the state of justice in Ukraine regarding the access to information, public participation in the decision-making process and access to justice in environmental matters

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The Supreme Court (Ukraine, Kyiv)

a judge of the Civil Cassation Court within the Supreme Court

Statistics

During 2018-2020, the Supreme Court, in its cassation courts, reviewed 23 cases concerning public participation in the decision-making process and access to justice in environmental matters

the Grand Chamber of the Supreme Court - 1 case

the Civil Cassation Court – 2

the Commercial Cassation Court – 3

the Administrative Cassation Court – 17

The cases mainly concerned:

- 1) appeals against decisions of local self-government bodies on the provision of land plots, which were carried out with violation of the intended use of land plots and placement of objects on them that are capable of harming the environment
- 2) violation of land and water legislation on the allocation of land within the natural protection zones of rivers and inland seas
- 3) cruel treatment of animals and birds, including those introduced to the Red Data Book of Ukraine
- 4) emission of pollutants into the air

The applicants mostly applied to the court as members of the public (individually or in the form of a public association) on the basis of Article 50 of the Constitution of Ukraine, which guarantees everyone the right to a safe and healthy environment and compensation for damages. Everyone is guaranteed the right of free access to information about the state of the environment, the quality of food and household items, as well as the right to its dissemination. Such information cannot be classified by anyone. Articles 2, 9 of the Aarhus Convention, ratified by Ukraine by the Law of Ukraine of July 6, 1999 № 832-XIV, were cited as legal grounds for appealing to the court with a request to protect environmental rights and interests

It should be noted that Ukrainian courts fully ensure public access to justice in the environmental matters. In cases where the right of access to justice of public organizations was restricted by lower courts on the grounds of lack of grounds to go to court in the interests of a certain group of residents or lack of representative authority in the statutory documents of public organizations on violations of environmental rights and interests, cassation courts found violations of the right of access to justice guaranteed by Article 6 the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and restored the procedural right to apply to court by referring the case for retrial or determining the jurisdiction of the dispute

Among the cases in which the cassation courts have formed legal opinions on the rules of application of the Aarhus Convention in the Ukrainian judiciary, we should identify the following:

In matters of access of public organizations and individual actors to justice, as well as on combating cruel treatment of animals:

the decision of the Grand Chamber of the Supreme Court of 11.12.2018 in case № 910/8122/17

the decision of the Civil Cassation Court of 28.08.2019 in case № 539/369/19

decisions of the Administrative Cassation Court of 11.08.2020 in case № 821/837/17, of 02.10.2019 in case № 826/9432/17, of 03.04.2018 in case № 800/216/17

In matters of protecting environmental rights of citizens on the use of land in violation of land and water legislation:

the decision of the Civil Cassation Court of 01.04.2020 in case № 127/3170/17

decisions of the Commercial Cassation Court of 01.10.2020 in case № 904/4470/19, of 14.02.2019 in case № 911/792/18

decisions of the Administrative Cassation Court of 25.06.2020 in case № 826/11374/15, of 15.05.2020 in case № 420/2256/19

In matters of environmental restoration, cancellation of public authorities and of bodies local self-government decisions on construction, subsoil use:

the decision of the Commercial Cassation Court of 17.04.2019 in case № 911/1579/16

the decisions of the Administrative Cassation Court
of 07.07.2020 in case № 640/15402/19,
of 26.02.2020 in case № 826/9175/18,
of 26.02.2020 in case № 826/9175/18,
of 26.11.2019 in case № 826/4630/18,
of 24.10.2019 in case № 806/1243/17

On the protection of the environment from harmful emission into the atmosphere:

decisions of the Administrative Cassation Court of
14.09.2020 in case № 520/9364/18,
of 21.10.2019 in case № 816/274/16,
of 21.10.2019 in case № 826/3820/18,
of 21.10.2019 in case № 826/3820/18,
of 18.04.2018 in case № 734/2723/17



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Thank you for attention!