

THE INSTITUTE OF ADMINISTRATIVE RESPONSIBILITY AS A TOOL OF ADMINISTRATIVE RATIONAL USING AND PROTECTION OF NATURAL RESOURCES

**E. SHULGA, Senior Lecturer,
National University of Life and Environmental Sciences of Ukraine**

In this article a study of the institute of administrative responsibility as an effective tool of administrative and legal support of rational use of mineral resources. It proves the necessity of use new environmental technologies in the domestic mining of subsoil industry.

Administrative responsibility, minerals, mineral resources, environment, rational use of mineral resources and protection of natural resources.

Nowadays, we could say that the current status of environmental management and protection of natural resources is irrational. Taking also into account the needs of the distant future, we believe that this problem is rampant in nature. In particular, it applies to the state of the depths of the situation – as a natural source of minerals and base in the use and protection of the balance between utilitarian and replacement components fast breaks and the external environmental pressures are an additional threat to the entire planet Earth. Hence, there is a need for the operation of such a mobile and socially sensitive management mechanism that would ensure sustainable management and careful subsoil protection. So today is the lever unit of administrative and legal support, the essential component of which is the institution of administrative proceedings. The conceptual basis of administrative law is a system which uses a broad (wide) range of functionally designed government and public institutions and mechanisms necessary to ensure and protect the public interest in the use and protect of natural resources is the.

Over the last thirty years among lawyers of the Soviet and post-Soviet period (mainly on the territory of Ukraine and the Russian Federation) territory issues on the need of adjusting and fundamentally rethinking of the legal provisions, in particular administrative, accountability has spread far enough, and it is reflected in the jurisprudential materials, content research and application in law [1, p. 252]. In modern Ukrainian legal literature on legal issues, in particular administrative responsibility a common subject of research. Among domestic jurists who have devoted their working hours for previous problems, namely liability for environmental offenses should note V. Andreytseva, V. Muntean, M. Yerofeyeva, V. Yevmolenko N. Malyshev, V. Kurylo, S. Kravchenko, S. Shemshuchenko. However, despite the rather

effective theoretical level of development, problem definition and conceptual content of the ingredients, the characteristics of legal (and therefore administrative) responsibility to this day remains acutely relevant to the transfer of accents being discussed.

The main purpose of this article is to investigate the administrative responsibility as a tool of administrative and legal rational use and protecting of natural resources.

Today it has come from a conventional division of 2 main group of scientists according to the two ways of understanding the legal responsibility of forming emphasis on the content of subjective or objective points. In a simplified meaning presentation of the general formula Definitional both groups seems diametrically opposed. Thus, proponents of the first approach, conceptual-forming element considered legal obligation offender forced to incur personal, financial or organizational loss for the offense, that the duty to suffer and execute assigned to it measures the state-coercion [2, p. 48]. The proponents of the second approach, emphasize the «legal point» as dominant in legal liability, believe that it is applied to the offender (responsible person) and measures of state coercion for the offense, considering it as the implementation of sanctions and their application performance [3, p. 103, 121]. However, in our opinion, none (any) of the accented points can be regarded as a basic categorical attribute of legal liability, because both moments simultaneously acquire a subjective (internal) and objective (external) character if the legal responsibility to consider the plain relations. And, actually, the thesis that the legal (and therefore also administrative) responsibility must be regarded as legal relations, positionally means in legal science as socially adequate and a vital perspective [1, p. 50–65]. However, given the semantic meaning of «responsibility» and focusing on the social aspect of the legal field (performance of social duty all the legal entities in shaping rules – rules, requirements, etc., and in their implementation, compliance, application) to form a civil society, it is logical to conclude that the overall Definitional formula should contain the two opposite points as essentially intertwined. And inseparable one from another.

Experience in our state of economic reforms objectively showed that we are making a high appropriate level of legitimacy and order, a high level state discipline, proper dynamism of the industry and the priority of national public interest exclusively in civil law category is impossible.

An important link in the system of administrative law to ensure rational use of mineral resources is the institution of administrative responsibility. However, it is also a specific way to improve management in the sphere of natural resources and the impact on people's behavior and their teams during their interaction with the surrounding natural environment that causes or may cause any adverse change in it.

The system of environmental management and quality environment responsibility, (including administrative), should be considered in three senses, namely as part of the method of the legal protection of the environment, as performance guarantees all persons of legal regulations in this field and as an

independent institute in the mechanism of regulation of environmental relations [5, p. 143].

Analysis of measures of administrative responsibility for violations of legislation of natural resources allows full disclosure of the amount of power officials engaged in the disposal of mineral resources and control in use of subsoil. In this case, we should agree with the V. Severyuhin, according to which coercion is closely associated with the state government and determines the level of quality of power [6, p. 89]. However, it should be noted that coercion is "not very closely" but directly linked to the government, which, in fact, uses it. In this context, the performance index of the use administrative sanctions on infringers of the legislation of mineral resources, in conjunction with other socio-economic indicators are objective criteria for evaluating the rate of the skills of subsoil users and the integrity of performance relevant government officials of their primary responsibilities.

The institute of administrative responsibility in the use and protection of natural resources shall be significant due to the complexity of relationships in the industry and features of the object. The reason is that the state legal norms that determines the appropriate behavior regarding mineral resources and the environment, while creating a system of measures to ensure the desired behavior. Among these and administrative responsibility. Thus, the effectiveness and performance of social functions as a guarantee of compliance of the relevant legal requirements with respect to environmental protection mainly is conditioned of the existing of a clear definition, a clear definition of when and what measures can be applied to the state of the subject in order to ensure compliance in the field of nature conservation and its sustainable use [7, p. 25].

According to the remark of I. Galagan, administrative responsibility has always been a specific way of external, publicly, forced influence to the behavior of individuals who committed offenses [1, p. 25]. Forced and specific measures of administrative responsibility for violation of legislation of the mineral resources is that they all are solely and exclusively by state function of making laws. In the sphere of use and protection of natural resources such measures secured solely sanctions related articles CoUoAO (p. 58–59). By means of their constant, consistent and accurate implementation of the state ensures compliance by all citizens with their own legal obligations and compliance to hold themselves with legal restrictions in health and protection of mineral resources, the environment, provides meeting of the following by civil society tasks and functions in this area, and also protecting the interests of society against any illegal attacks on subsoil and the environment.

It's completely logical that among the measures to combat crime in the sphere of use and protection of natural resources, the administrative responsibility should play a very important role. But for the reason of responsibility has a preventative value, we need to respect a number of conditions. Firstly, the administrative responsibility must be real and inevitable. The second, strictly personalized, that apply only to persons of a particular activity and position of which depends on the state of soil and minerals that they occur. Thirdly, the administrative responsibility should create a very tangible negative

consequences for offenders. Moreover, the efficiency of administrative responsibility in the use and protection of natural resources depends on their mutual consistency, reinforcing by the procedural law displayed in the types of composition offenses objective needs of society to ban environmentally and economically harmful behavior in the given environment, and the validity of proper sanctions applied to offenders. Therefore, taking the law on administrative responsibility in the use and protection of natural resources, the legislator should take into account the economic, social, moral and ethical environment in which they will operate, and without which they can not be effective [7, p. 31, 46].

Even more important in the development of rules of the administrative responsibility in the sphere of use and protect of subsoil is clear that legislators understand the strategic unity of purpose and objectives of management of mineral resources and their protection [8, p. 19–20]. Some scientists accurately indicate that environmental and nature protection - not two separate forms of interaction between society and nature, and even, as they say, not two sides of the same coin, and one difficult subject, inter-task management of natural resources in the production process. Therefore separation purposes conservation of environmental management leads to the fact that the existing legal provisions aimed at ensuring the protection of the environment, are like the «limits» of industrial activity and only outline its path without penetrating «inside» and therefore do not significantly influence the formation of the manufacturing process [9, p. 10–11].

At present, the main reason for the negative effects of subsoil mining industries on the environment is imperfect in terms of environmental protection, applying their technologies [10, p. 92–93]. In practice, mining companies are constantly faced with the fact that working in a given technological parameters, using one or other equipment, they objectively unable to comply with environmental legislation. And as the result is the antagonism between production processes and protection of the environment. In this regard, there is an urgent need to transition to new technological processes, thereby reducing the negative impact of mining industries on the environment, the implementation of waste, low-saving technologies. This application is protected (saving) technology is the future play a crucial role in ensuring rational, comprehensive and careful use of mineral deposits. In addition, it will provide real protection and protection of mineral resources and the environment and the public from the harmful effects of mining (hirnychopererobnyh) productions.

In this regard, we believe there is an urgent need to develop legal rules aimed at preserving traditional forms of nature and stimulating introduction to industrial production and new resource pryrodovidnovlyuyuchykh technologies that ensure formation of the environmentally friendly policing. However, given the fact that exclusively legal requirements about the need for environmental protection and energy-saving technologies is hardly possible to achieve real success, the regulation implementing new technologies should be based primarily on the use of economic incentives, creating an economic and legal situation in which relevant economic actors would be advantageous to use in

its manufacturing operations, such as environmental protection and energy saving technologies. Under these circumstances, environmental activities integrally joined to natural resources in economic activity. Moreover, we believe that in society should be created a certain atmosphere of moral development of ecological culture – a factor that contributes to the conscious performance of citizens, enterprises, institutions and organizations, environmental requirements of current legislation.

Modern legal doctrine of administrative responsibility to some extent goes back to the Soviet concept of administrative law, preserving fundamental provisions of a number of outdated regulatory framework and by creating internal dissonance and distortion in its meaningful definition, and in legal terms (inadequate qualification and enforcement actions) that in turn, causes a poor outcome for society powerful response to the offense.

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Досліджується інститут адміністративної відповідальності як дійовий інструмент адміністративно-правового забезпечення раціонального користування надрами. Обґрунтовується необхідність застосування новітніх природоохоронних технологій у вітчизняній гірничовидобувній промисловості.

Адміністративна відповідальність, надра, надрокористування, корисні копалини, природне середовище, раціональне користування надрами, охорона надр.

Исследуется институт административной ответственности как действенный инструмент административно-правового обеспечения рационального использования недр. Обосновывается необходимость применения новейших природоохранных технологий в отечественной горновыдобываемой промышленности.

Административная ответственность, надра,

**недропользование, полезные ископаемые, естественная среда,
рациональное пользование недрами, охрана недр.**