

Having listened to the judge-rapporteur, the explanations of the representatives of the parties, having checked the case file, arguments of the appeal and objections to it, the panel of judges considers it necessary to satisfy the appeal of International charitable organization "Environment-People-Law" partly and to change the resolution of Kyiv District Administrative Court of 14 March 2014 in the part of the grounds for refusal to satisfy the claim based on the following.

According to Art. 159 of the Code of Administrative Proceedings of Ukraine, a court judgement must be lawful and reasonable. A judgement made by a court in accordance with the rules of substantive law in compliance with the rules of procedural law is lawful. A judgement made by the court on the basis of fully and comprehensively clarified circumstances in an administrative case, confirmed by such evidence, which was examined at the hearing, is reasonable.

According to Art. 201 of the Code of Administrative Proceedings of Ukraine, the court of appellate instance changes the judgement of the court of the first instance in case of a correct decision on the merits of a case or issue, but with erroneous application of substantive or procedural law.

The court found that International charitable organization "Environment-People-Law" challenges actions and omissions of the Cabinet of Ministers of Ukraine and the State Geology and Minerals Service of Ukraine regarding organization of conclusion and implementation of hydrocarbons sharing agreements in the Yuzivska section.

When deciding to satisfy the claims of International charitable organization "Environment-People-Law", the court of the first instance proceeded from the fact that it is a proper plaintiff in this lawsuit, but its claims are ungrounded.

The panel of judges does not fully agree with the above conclusions of the court of the first instance in view of the following.

In accordance with paragraph 8 of Part 1 of Art. 3 of the Code of Administrative Proceedings of Ukraine, the plaintiff is, in particular, a person for the protection of rights, freedoms and interests of whom an administrative claim has been filed in the administrative court.

According to Part 1 of Art. 2 of the Code of Administrative Proceedings of Ukraine, the task of administrative proceedings is protection of rights, freedoms and interests of individuals and legal entities in the area of public relations from violations by public authorities, local governments, their officials and servants, other entities in the exercise of their managerial functions on the basis of legislation, including the exercise of delegated powers.

From the above rules of law it is seen that a natural and legal person may apply to the administrative court with a lawsuit to declare illegal decisions, actions or omissions of the subject of power, in particular, if such actions directly affect its/his/her rights, freedoms and interests in the area of public relations.

Thus, a natural and legal person has the right to appeal to the court not any decisions, actions or omissions of the subject of power, which, in his/her opinion, were committed in

violation of the law, but only those that are directly related to the person who filed an administrative lawsuit.

Thus, addressing the court with a claim to challenge actions and omissions of the Cabinet of Ministers of Ukraine and the State Geology and Minerals Service of Ukraine regarding organization of the conclusion and implementation of hydrocarbons sharing agreements in the Yuzivska section, International charitable organization "Environment-People-Law" was obliged to indicate not only what, in its opinion, was the illegality of such actions and omissions of the defendants, but also how such actions and omissions violate its rights and interests in the area of public relations.

The provisions of paragraph 2.4.5 of the statute of International charitable organization "Environment-People-Law" provide that in order to carry out charitable activities, the organization has the right to represent and protect its legitimate rights and interests, the legal rights and interests of its members and others in state and public bodies, local governments.

Addressing the court with this claim, International charitable organization "Environment-People-Law" did not explain how the challenged actions and omissions of the defendants affect rights and interests of the plaintiff in the area of public relations.

From the above it is seen that this lawsuit was filed by International charitable organization "Environment-People-Law" to protect not their own interests, but the interests of others.

The Code of Administrative Proceedings of Ukraine provides for the possibility of going to court with an administrative claim in the interests of others, but only in cases provided by law.

Thus, in accordance with Part 1 of Art. 60 the Code of Administrative Proceedings of Ukraine, in cases established by law, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, public authorities, local governments, individuals and legal entities may apply to the administrative court with administrative claims to protect rights, freedoms and interests of others and participate in these cases.

Instead, in this case, the right of International charitable organization "Environment-People-Law" to go to court with this claim is enshrined exclusively in the statute of the association, but not provided for in the legislation of Ukraine.

The procedure for formation, registration, operation and termination of public associations is defined by the Law of Ukraine "On Public Associations". The rights of public associations, which are granted to them for the realization of their purpose (goals), are defined in Art. 21 of this Law.

However, this rule of law does not provide for the rights of public associations to sue in the interests of others.

In this regard, the panel of judges concludes that International charitable organization "Environment-People-Law" is an improper plaintiff under these claims, which is the basis for refusing to satisfy the claim.

Given that International charitable organization "Environment-People-Law" is an improper plaintiff in this administrative case, the panel of judges considers that the court of the first instance unreasonably provided a legal assessment of the actions and omissions of the Cabinet of Ministers of Ukraine and the State Geology and Minerals of Ukraine mentioned in this administrative claim.

In view of the foregoing, the panel of judges concluded that the court of the first instance had violated the rules of procedural law, which led to an incorrect decision on the case. In this regard, the panel of judges considers it necessary to satisfy the appeal of International charitable organization "Environment-People-Law" in part, to change the decision of Kyiv District Administrative Court of March 14, 2014 in part of statement of the grounds for dismissal.

Guided by Art. 160, 167, 195, 196, 198, 201, 205, 207, 212, 254 of the Code of Administrative Proceedings of Ukraine, the panel of judges, -

**RESOLVED:**

The appeal of International charitable organization "Environment-People-Law"- to satisfy in part.

The change the resolution of Kyiv District Administrative Court of March 14, 2014 noting that the grounds for refusing to satisfy the administrative claim of International charitable organization "Environment-People-Law" are the circumstances set out in the motivating part of this decision.

In the other part, to leave unchanged the resolution of Kyiv District Administrative Court of March 14, 2014.

The resolution comes into force from the moment of proclamation and can be appealed within twenty days from the date of its drawing up in full by filing a cassation appeal directly to the Supreme Administrative Court of Ukraine.

Presiding Judge