

**ПИТАННЯ ЦИВІЛЬНОГО, ГОСПОДАРСЬКОГО
ТА ТРУДОВОГО ПРАВА**

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**INTERNATIONAL LEGAL RESPONSIBILITIES OF UKRAINE ON THE
PROBLEMS OF PROVISION OF FUNCTIONING OF COMMUNICATION
NAVIGATION SYSTEMS**

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The article deals with the problems of the international legal obligations of Ukraine on the issues of navigation communication system operation. The legal consequences of the absence in Ukraine of a purposeful state policy of development of the market of geoinformation services in the sphere of navigation geoinformation systems are analyzed. The obligation to consolidate at the legislative level provisions on the international legal responsibility of Ukraine arising in the field of the functioning of communication navigation systems is explained. It is indicated that objectively growing needs for digital cartographic products for transport and navigation geoinformation systems have led to a series of initiative projects of enterprises of various forms of ownership for the production of digital navigational charts and software.

The development of the right to communication in Ukraine is an important prerequisite for the integration of national and international communications legislation. In order to solve a number of development problems, the existence and application of national legislation in the field of satellite communications, which is separated from the realities of the development of the international legislative process in general, is not enough. Also it is said that the decisions of the EU institutions, as well as the decisions of the Joint Committee of the Association, form the part of the national legal order of the associated countries.

Key words: international legal obligations, navigation communication system, geoinformation services, geoinformation systems, the EU institutions, public administration, radio frequency resource, ICAO, IMO.

МІЖНАРОДНО-ПРАВОВІ ЗОБОВ'ЯЗАННЯ УКРАЇНИ З ПИТАНЬ ЗАБЕЗПЕЧЕННЯ ФУНКЦІОНУВАННЯ КОМУНІКАЦІЙНИХ СИСТЕМ НАВІГАЦІЇ

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У статті досліджуються питання міжнародно-правових зобов'язань України з питань забезпечення функціонування комунікаційних систем навігації. Аналізуються правові наслідки відсутності в Україні цілеспрямованої державної політики розвитку ринку геоінформаційних послуг в сфері навігаційних геоінформаційних систем. Пояснюється обов'язковість закріплення на законодавчому рівні положень щодо міжнародно-правової відповідальності України, яка виникає в області функціонування комунікаційних систем навігації. Зазначається, що об'єктивно зростаючі потреби в цифровій картографічній продукції для транспортно-навігаційних геоінформаційних систем зумовили низку ініціативних проектів підприємств різних форм власності з виробництва цифрових навігаційних карт і програмних засобів.

Розвиток права на комунікацію в Україні є важливою передумовою інтеграції національного та міжнародного комунікаційного законодавства. Для вирішення ряду проблем розвитку вже недостатньо існування та застосування національного законодавства в області супутникового зв'язку, відірваного від реальності розвитку міжнародного законодавчого процесу в цілому. Також йде мова про те, що Україна може запровадити механізм реалізації через відсилання в національному законодавстві до актів ЄС чи здійснити інкорпорацію в національне законодавство окремих положень або цілих блоків норм права Євросоюзу. Постанови інститутів ЄС, а також постанови Спільного комітету асоціації стають складовою національних правопорядків асоційованих країн.

Ключові слова: Міжнародно-правові зобов'язання, навігаційна система зв'язку, геоінформаційні послуги, геоінформаційні системи, установи ЄС, державне управління, радіочастотний ресурс, ІКАО, ІМО.

МЕЖДУНАРОДНО-ПРАВОВЫЕ ОБЯЗАТЕЛЬСТВА УКРАИНЫ ПО ВОПРОСАМ ФУНКЦИОНИРОВАНИЯ КОММУНИКАЦИОННЫХ СИСТЕМ НАВИГАЦИИ

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В статье исследуются вопросы международно-правовых обязательств Украины по вопросам обеспечения функционирования коммуникационных систем навигации. Анализируются правовые последствия отсутствия в Украине целенаправленной государственной политики развития рынка геоинформационных услуг в сфере навигационных геоинформационных систем. Объясняется обязательность закрепления на законодательном уровне положений об международно-правовой ответственности Украины, возникающей в области функционирования коммуникационных систем навигации. Отмечается, что объективно растущие потребности в цифровой картографической продукции для транспортно-навигационных геоинформационных

систем обусловили ряд инициативных проектов предприятий различных форм собственности по производству цифровых навигационных карт и программных средств.

Развитие права на коммуникацию в Украине является важной предпосылкой интеграции национального и международного коммуникационного законодательства. Для решения ряда проблем развития уже недостаточно существования и применения национального законодательства в области спутниковой связи, оторванного от реалий развития международного законодательного процесса в целом. Также говорится о том, что Украина может ввести механизм реализации через отсылку в национальном законодательстве к актам ЕС или осуществить инкорпорацию в национальное законодательство отдельных положений или целых блоков норм права Евросоюза. Постановления институтов ЕС, а также постановления Общего комитета ассоциации становятся составной национальных правопорядков ассоциированных стран.

Ключевые слова: Международные правовые обязательства, система навигационной связи, геоинформационные услуги, геоинформационные системы, институты ЕС, государственное управление, радиочастотный ресурс, ИКАО, ИМО.

The issue of the use of modern navigation technologies at the international level is governed by the International Telecommunication Convention, 1991, the Statute of the International Telecommunication Union, which entered into force on July 1, 1994, the Brussels Convention on the Distribution of Carrier Programs of Signals Transmitted via Satellite 1974, Agreement on cooperation on the civilian global navigation satellite system (GNSS) between the European Community, its member states and Ukraine (2005). The principle of ensuring freedom of information is common for the specified legal acts in the framework of cooperation on the basis of concluded agreements. The range of applications of communication navigation systems is potentially large; it extends from the use of transportation (including personal and passenger vehicles, public transport, truck fleet), rail, sea and air transport, for LBS services, geodesy, mapping, personal security, emergency response, in the oil and gas sectors, energy and utilities, asset accounting and logistics, agriculture, fisheries, construction, healthcare, etc. It is believed that the application of navigation systems is on the verge of formation, and that its apparent popularity at the moment is only the tip of the iceberg [1].

The development of the right to communication in Ukraine is an important prerequisite for the integration of national and international communications legislation. In order to solve a number of development problems, the existence and application of national legislation in the field of satellite communications, which is separated from the realities of the development of the international legislative process in general, not enough.

Issues of international legal regulation of mass communication were violated in a series of complex scientific papers. An analysis of recent doctrinal studies suggests that O. Baranov, I. Bachilo, O. Gorodov, V. Gryshchenko, I. Zabara, R. Kalyuzhny, Yu. Kolosov, V. Kopylov, E. Krivchikova, A. Maruschak, V. Meer-Schonberger, P. Melnyk, V. Pavlovsky, M. Rasolov, D. Savelyev, M. Shvets,

V. Tsimbalyuk and other domestic and foreign scientists studied the theory of information law, but these works, not being numerous, nevertheless determine only certain aspects of the problem. Outside the attention of researchers remained issues about international legal regulation of satellite communications, navigation and positioning, liability of subjects of navigation activities.

In this connection, the international integration of information systems, information and telecommunication technologies and information resources becomes relevant. According to Art. 92 of the Constitution of Ukraine "Only the Laws of Ukraine determine the principles of the use of natural resources, ..., organization and operation of energy systems, transport and communications" [2]. Legal regulation in the field of telecommunications and use of the radio frequency resource of Ukraine is regulated by the Laws of Ukraine "On Telecommunications" [3] and "On radio frequency resource of Ukraine" [4], regulations of the Cabinet of Ministers of Ukraine and other legal acts. In addition, since Ukraine has been a member of ITU and has ratified its Constitution and the Convention, it has undertaken to apply the provisions of the Charter and the ITU Convention in the country, to adopt the relevant national legislation, which must necessarily include the main provisions of the international Contracts.

According to Art. 9 of the Law of Ukraine "On Radio Frequency Resource of Ukraine", the state administration in the area of the use of radio frequency resource is carried out by the Cabinet of Ministers of Ukraine and the central executive body in the field of communication. According to Art. 17 of the Law of Ukraine "On Telecommunications" and Art. 12 of the Law of Ukraine "On radio frequency resource of Ukraine" by the regulatory body in the spheres of telecommunications and the use of the radio frequency resource of Ukraine is the National Commission on Communications Regulation, the tasks and powers of which in the area of the use of the radio frequency resource are determined by the relevant Provisions [5].

In 2005, the National Commission for Communications Regulation of Ukraine developed and registered at the Ministry of Justice of Ukraine "Licensing Terms of Use of the Radio Frequency Resource of Ukraine". As the frequency resource of Ukraine is limited and due to the introduction of new radio technologies in Ukraine, the free frequency resource is almost exhausted, one of the tasks of the National Commission on Communications Regulation of Ukraine is to improve the process of licensing the radio frequency resource and licensing on a competitive basis in accordance with the Law. Ukraine, on licensing certain types of economic activity. "Legal regulation in the area of licensing of radio frequency resources is stipulated by Article 31-40 of the Law of Ukraine" On Radio frequency resource of Ukraine" and "Licensing conditions for activities in the field of telecommunications for the provision of mobile telephony services

with the right to maintain and operate telecommunication networks and the provision of telecommunication channels" [6].

By 2010, satellite navigation information activity in Ukraine was coordinated in accordance with the State Program for ensuring the functioning and development of the state monitoring network of global navigation satellite systems by 2010, which stated that "... the most efficient way to guarantee the provision of executive power, Public services and establishments of high-quality satellite navigation information is the creation of the National Terrestrial Differential Addition to the GLONASS and GPS-based networking with the possibility of further integration into the EGNOS system, and in the long run - into the GALILEO system» [7].

On December 1, 2005, in Kyiv at the Ukraine-EU Summit, it was announced the signing of the Agreement on cooperation between Ukraine and the European Community (EU) on the development of the project of GALILEO satellite-based radionavigation system.

The National Space Agency of Ukraine (NSAU) carries out the responsibility for the planning and implementation of the national space program, accompanying the projects implemented in Ukraine in accordance with this Agreement.

In addition, the National Space Agency of Ukraine carries out the preparation and development of relevant intergovernmental agreements, protocols and other documents.

Ukraine's cooperation with foreign countries in the field of navigation is based on the current legislation of Ukraine and international treaties concluded by foreign states in the space sector.

A radio navigation plan is an official document that defines state policy in the field of navigation at the present stage of development of Ukraine in a complex and multifactorial way.

The regulatory role of this official document is that the state proclaims sovereign rights to the radio navigation space; informs about the current state of radio navigation; defines priority directions of the development of radio navigation and necessary technical means for all categories of consumers of Ukraine; harmonizes the relationship between national and international regulatory documents in the field of modern radionavigation; defines the requirements for equipment and technical equipment that can be developed by domestic producers to meet the radio navigation needs of consumers.

International organizations ICAO and IMO have developed promising standards for navigational requirements.

This greatly increased the requirements for the zone of operation of the RNS, the accuracy of the location, integrity and availability of the radio navigation information.

The RNPU is being harmonized as part of the European Radionavigation Plan (ERNP), which is being developed by the European Commission.

This principle allows protecting the interests of Ukrainian consumers in the world community. Data from Earth observation satellites helps to address the urgent tasks of planning the development of territories, assessing the condition of forests, classifying soils and crops, finding oil and gas deposits, monitoring fires, flooding and flooding, detecting land pollution and natural reservoirs.

International regulatory legal instruments are developed by organizations such as ICAO, IMO, International Electrotechnical Commission, International Telecommunication Union, EUROCAE (European Civil Aviation Organization), US Federal Aviation Administration (FAA) and others, including RTCA, RTCM, ARINC. The state navigation policy is also determined by the State Standards of Ukraine.

Consequently, the implementation of the space navigation and time security system of Ukraine is carried out with the aim of development of navigational and temporal security on the territory of Ukraine that would meet the requirements of users of navigation information on the accuracy of its local definition throughout the territory of Ukraine in the national airspace, waters of the seas with the necessary level of reliability and availability, and also would ensure integration of Ukraine into international navigation service systems.

At the same time, the space navigation and time security system of Ukraine must take into account the international requirements and responsibilities that Ukraine has assumed as a member of the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO), namely: to provide international air navigation in accordance with the Standards and practices of ICAO; to provide the navigation of ships, in accordance with IMO requirements in the territorial waters of Ukraine.

The Radio Navigation Program of Ukraine (hereinafter referred to as the RNPU) highlights the state of the existing radionavigation systems, defines the promising technologies and the main directions of development of these systems. The space navigation and time security system of Ukraine is created as an autonomous system for more efficient use of air, sea and ground space, as well as a dual-purpose system for a special period.

The use of the GALILEO navigation information system project in Ukraine in conjunction with the currently operating global GPS and GLONASS systems will enable, in the long term, to significantly improve and guarantee the accuracy, reliability and availability of user services for navigation services.

Ukraine's cooperation with foreign countries in the field of exploration and use of outer space for peaceful purposes is based on fundamental international treaties in this area, Ukraine's international obligations in the field of space activities and the current legislation of Ukraine governing space activities.

In 2013, projects with the participation of Ukrainian scientific organizations under the framework of the Seventh Framework Program of the European Union for Research and Technological Development (FP-7) began to be discussed, with the aim of discussing the possibilities of Ukraine's participation in the European system of remote sensing of Earth "Copernicus" (GMES), which includes The system of various means of observing the Earth (spacecraft, unmanned aerial vehicles, airplanes, etc.), The benefits of using Sentinel satellite grouping and the core services provided by Copernicus with these satellites (atmospheric observation, sea and surface observations, climate change observations, emergency response and detection services and tracking threats) were noted. Ukraine's membership in the European Space Agency (ESA) is very important for the participation in European projects, particularly for the remote sensing of the Earth.

Legal bases for providing information on the results of radio monitoring by the state authorities of frequency regulation of other countries are based on the application of the provisions of the Charter, the ITU Convention, the Radio Regulations for the establishment by the Communications Administrations of all ITU member countries of acceptable conditions for the safe operation of radiocommunication of other States and Are regulated by bilateral and multilateral agreements on cooperation between the neighboring countries' administrations.

The relationship between the State Enterprise "Ukrainian State Center of Radio Frequencies" as a regulatory body in the area of the use of radio frequency resources and its users is regulated by the Law of Ukraine "On Radio Frequency Resource of Ukraine" and are determined by the terms of contracts for work on technical radiocontrol of radio emission parameters and provision of radiotelegraphic communication between the indicated parties [4].

Unfortunately, it should be noted that in Ukraine there is no targeted state policy of developing geoinformation services market in the field of navigation geoinformation systems. Objectively growing needs for digital cartographic products for transport and navigation geoinformation systems have led to a series of initiative projects of enterprises of various forms of ownership for the production of digital navigational charts and software.

Nevertheless, Ukraine has also signed bilateral international treaties on cooperation with space agencies and agencies of the United States, the European Union, Brazil, Argentina, India, China, Israel, Turkey and Kazakhstan.

Multilateral agreements and cooperation agreements with international organizations and telecommunication companies "Panamsat", "Intelsat", "Intersputnik", "Eutelsat", "Inmarsat", "Eumetsat" have been concluded. During the years of Ukraine's independence, favorable international legal conditions have been provided for the release of enterprises and facilities of the space industry to

the world market.

The participation of Ukrainian enterprises in international commercial space projects is spreading. The most significant of them are "Sea Launch", "Ground Start", "Dnepr", "Cyclone-4", "Vega", "Antares".

Cooperation agreements with more than 20 countries, with the space agencies of US (NASA), of France (CNES), of Germany (DLR), of the European Union (ESA), of Italy (ASI), of Spain (INTA) are signed.

In addition, at the level of institutional implementation of international legal obligations of Ukraine in the field of navigation, as well as on the implementation of Article 22 of the Code of Commercial Seafaring of Ukraine - "Technical oversight of seagoing vessels", the Resolution of the Cabinet of Ministers of Ukraine No. 814 established the classification society "Register of Shipping of Ukraine" One of the main tasks of which is the classification of sea and river spaces of the state with the definition of the boundaries and conditions of navigation of the corresponding classes of ships [8].

As for the bases of legal regulation of information activities at the stage of rescue, they are enshrined in Art. 30 of the Civil Protection Code of Ukraine of 02.10.2012, which states that the notification of a threat or emergence of an emergency is to promptly bring such information to the civil protection of the authorities, civil defense forces, business entities and the population, by: 1) functioning of the national, territorial, local automated systems of the centralized alert about the threat or occurrence of emergency situations, special, local and object notification systems; 2) centralized use of telecommunication networks of general use, including mobile communication, departmental telecommunication networks and telecommunication networks of business entities in the order established by the Cabinet of Ministers of Ukraine, as well as networks of national, regional and local broadcasting and television and other technical means of transmitting (displaying) information; 3) automation of the process of transmission of signals and messages of threat or emergence of emergencies; 4) operation of high-risk objects of automated systems for early detection of emergencies and alerts; 5) the organizational and technical integration of various systems for the centralized alert about the threat or emergence of emergencies and automated systems for early detection of emergencies and alerts [9].

The decisions of the EU institutions, as well as the decisions of the Joint Committee of the Association, form the part of the national legal order of the associated countries. The regulations have direct effect in the legal order of the associated countries, and the directives are binding on the result to be obtained, leaving the choice of how the implementation of the authorities in these countries.

Ukraine may introduce a similar mechanism of implementation through the sending of the national legislation to EU acts or to incorporate into national legislation certain provisions or whole blocs of EU law. The decisions of the EU

institutions, as well as the decisions of the Joint Committee of the Association, form part of the national legal order of the associated countries.

The conclusion in 2014 of the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States involves the implementation of a comprehensive program of adaptation of Ukraine within the free trade zone between Ukraine and the EU. Regulations are directly applicable in the legal orders associated countries, and directives are binding as to the result, which must be obtained by leaving the choice of method for implementing the governmental institutions of these countries.

Trade liberalization-service is a part of a comprehensive program of adaptation of Ukraine, where electronic communications services are determined to occupy a special place.

The legal status of the Cabinet of Ministers of Ukraine, as the subject of information management, is characterized by a certain level of legal uncertainty. In accordance with the general principles of the Constitution of Ukraine, the Cabinet of Ministers of Ukraine must act only on the basis, within the limits of authority and in the manner prescribed by the Constitution and laws of Ukraine.

That is, the managerial activity of the government implies the presence of legally established powers and competencies. At the same time, the basic law - "On the Cabinet of Ministers of Ukraine" does not contain norms that would give it clear tasks, functions, rights and duties (powers) in the information sphere.

In the legislative process of modern Ukraine, there was the possibility of choosing an independent position in solving problems of implementing its international obligations by developing an optimal approach to the relation of international and national law. V. Muraviov states that "this is especially true of the problems of the application of universally accepted principles and norms of international law in the internal legal order and judicial practice. All this fully applies to the provisions of the law of the European Union in the national legal order of Ukraine, in particular, the Association Agreement. The further development of the processes of Ukraine's integration into the EU requires the introduction of changes in the national legislation in order to create in the internal law and order of Ukraine the conditions for the legislation of the EU integration structures to be in force in it, and for this provision the European choice of Ukraine should be consolidated in the preamble or in section I of the Basic Law, which would promote continuity in its external and internal policies, regardless of the change of political forces in power, and the consistency in the progressive development of our state" [10, p. 29].

The integrated system of powers of the central executive authorities in the more important tasks of forming and ensuring the implementation of the state policy in the field of information and information society development is not formed.

Separate regulations form a set of diverse tasks in reforming the information sphere, which have different meanings and often not supported by either the

organizational or resources.

It is necessary to modernize state bodies in the direction of generalization and integration of information resources into a single system of strategic priority directions, and to ensure a clear system of public administration.

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