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Case Summary posted by the Task Force on Access to Justice	
UKRAINE: Environment-Law-People (ELP) v. the Ministry of Ecology and Natural Resources of Ukraine regarding mandatory publication of conclusions of the <i>state environmental expertiza</i> on the Internet, № 2a-13786/10/2670	
1. Key Issue	Access to information -- the conclusions of the <i>state environmental expertiza</i> of the Ukrainian Ministry of Environmental Protection and its territorial bodies should be published and made available through the Internet
2. Country/ region	Ukraine
3. Court/ body	Kyiv Administrative Appeal Court
4. Date of Judgement	2012-11-22
5. Internal Reference	№ 2a-13786/10/2670
6. Articles of the Aarhus Convention	Art.4, para.1, art. 5, para. 3 (d), and art.6, para. 9
7. Key Words	Public, Internet, conclusions of <i>state environmental expertiza</i> , environmental information, access to information, dissemination of environmental information
<p>8. Case Summary</p> <p>In accordance with article 4, paragraph 1, of the Aarhus Convention, public authorities are obliged to provide environmental information to the public, including copies of actual documentation containing or comprising such information.</p> <p>Article 6, paragraph 9, of the Convention guarantees that the public must be promptly informed of a decision after it is taken; in accordance with appropriate procedures, each party shall provide a text of the decision with the reasons and consideration on which the decision is based.</p> <p>In accordance with paragraph 3 of the “Action Plan on Implementing the Decision of the Parties to the Aarhus Convention III/6f”, approved by the Ukrainian Cabinet of Ministers № 1628-r on 27 December 2008, the Ukrainian Ministry of Ecology and Natural Resources is obliged to make the conclusions of the <i>state environmental expertiza</i>¹ public on the web-site and in the print edition of “Ecotizhden”.</p> <p>In September 2010, the claimant, international nonprofit organization “Environment-Law-People” (ELP), went to court with an administrative claim against the Ukrainian Ministry of Ecology and Natural Resources regarding the failure to provide the conclusions of the <i>state environmental expertiza</i> on the Ministry’s web portal and its regional and district websites. The claimant also requested to fulfil the obligations of the Ministry to publish the conclusions of the <i>state environmental expertiza</i> adopted since 2009 on its official website. On 27 October 2011, the District Administrative Court of Kyiv took a decision partially satisfying the ELP’s claim.</p>	

¹ The OVOS/*expertiza* system is a development control mechanism followed in many countries of Eastern Europe, the Caucasus and Central Asia. The Committee has held that the OVOS and the *expertiza* should be considered jointly as the decision-making process constituting a form of environmental impact assessment procedure (see ECE/MP.PP/C.1/2013/9, para. 44).

Disagreeing with the aforementioned judgment, the Ministry filed an appeal to the Kyiv Administrative Appeal Court to overturn the decision of the court of first instance, arguing that it was adopted in violation of substantive law, and adopt a new decision to dismiss the plaintiffs' claims.

The Kyiv Administrative Appeal Court dismissed the appeal, and affirmed the decision of the court of first instance. In particular, the Kyiv Administrative Appeal Court agreed with the decisions of the court of first instance regarding the validity of the plaintiffs claim vis-à-vis the failure of the Ministry of Ecology and Natural Resources to act, encompassing the failure to ensure the publication of the conclusions of *state environmental expertiza* on the Ministry's web portal and regional and district websites of the Ministry of Environmental Protection. Additionally, the court recognized the obligation to publish the conclusions of the *state environmental expertiza* adopted since 1 January 2009 on official website of the Ministry of Ecology and Natural Resources.

The Ukrainian Ministry of Ecology and Natural Resources was obliged to publish 1293 conclusions of the *state environmental expertiza* conducted from 1 January 2009 to 12 June 2011 on its official website.

9. Link address	http://reyestr.court.gov.ua/Review/28301545 http://www.unecce.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/UKRAINE/Ukraine_2012_StateEnvExpertizaConclusions_judgement.pdf
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