

**Information about the authors:**

**Kovbas Ihor Vasylovych,**

Doctor of Law, Associate Professor,  
Senior Lecturer at the Department of Public Law,  
Faculty of Law of Yuriy Fedkovych Chernivtsi National University,  
Kotsiubynskoho St, Chernivtsi, 58012, Ukraine  
ORCID: 0000-0001-7039-1586

**Krainii Pavlo Ivanovych,**

PhD in Law, Assistant,  
Department of Public Law of the Faculty of Law  
Yuriy Fedkovych Chernivtsi National University,  
Kotsiubynskoho St, Chernivtsi, 58012, Ukraine  
ORCID: 0000-0002-1263-9392

DOI <https://doi.org/10.30525/978-9934-26-369-9-11>

**REGULATORY SUPPORT FOR HAZARDOUS WASTE  
MANAGEMENT AS AN AREA OF PUBLIC DIGITAL  
ADMINISTRATION IN UKRAINE**

**Leheza Yu. O.**

**Formulation of the problem.** Optimization of the waste management regime in general, and in particular with industrial waste, defined as “hazardous” for Ukraine and for other countries of the world, does not lose its relevance. The establishment of appropriate administrative and legal regulation of the use of hazardous waste is a certain component of the environmental safety mechanism. In accordance with the current legislation of Ukraine, environmental safety is an integral part of the national security mechanism, and therefore belongs to the priority tasks of the functioning of state authorities and local self-government (Part 4 of Article 3 of the Law of Ukraine “On National Security of Ukraine” [1]).

**The state of scientific development of the problem.** The last decades of the development of society have updated the issues of optimizing the mechanism of handling (disposal, processing, transportation, etc.) with waste of both domestic and hazardous origin. At the same time, the study of the features of ensuring legal regulation of waste management, while

remaining relevant, was explored in the scientific developments of such representatives of legal science as V.A. Zuyev [2, c. 93–99; 3, c. 138–144], R. S. Kirin [4, c. 97–104], Yu. O. Leheza [5, c. 172–176; 6, c. 63–67], O. V. Hladii [7, c. 140–144] та ін.. Certain issues of waste management have been the subject of scientific developments by scientists such as N.R. Malysheva, V. I. Oleshchenko [8] and other authors. However, at the same time, a comprehensive scientific and practical study of the issues of ensuring the efficiency of hazardous waste management, despite its extreme public demand, has not been carried out, which actualizes the implementation of this development.

The purpose of the article is to characterize the legal framework for hazardous waste management as a sphere of public digital administration in Ukraine.

**Presentation of the main material.** It should be noted that the greatest degree of negative destructive impact on the environment is carried out as a result of the activities of mining and metallurgical complexes, which make up a significant part of the total number of enterprises in Ukraine []. According to official statistics, more than 160 thousand hectares of the territory of Ukraine are covered with hazardous waste, which is about 20% (to understand the scale of the environmental disaster, an area equal to twice the area of the city of Kiev is contaminated with hazardous waste) [9; 10].

As noted by the American agency 24/7 Wall Street, none of the 105 countries for which there is data on hazardous waste, like Ukraine, produces such waste in larger quantities (almost 448 million tons of waste/year), since Ukraine is one of the largest arms dealers in the world, it produces a total of no more than 474 million metric tons of waste per year. Hazardous waste management has been recognized in Ukraine as the most important and critical issue that must be addressed in waste management in general. The main reason for the lack of initiative for the disposal of such waste is “insufficient funding” [11].

As N.K. Cherkashina, a representative of the Kharkov scientific school of environmental law, notes, there are enough reasons why our state is experiencing difficulties in waste management. This includes outdated legislation, the lack of consistency in environmental and legal standards, the priority of waste disposal over disposal that has not yet been established, and the responsibility of citizens for improper waste management is not clearly spelled out, and the lack of economic incentives, and the lack of low-waste technologies and equipment. . could be used by business entities in the production process [12]. But still, the

main reason should be recognized as the absence of a national system for preventing the formation of waste – a set of measures preceding the transformation of an object, material, product or substance into waste. Instead of separate collection of waste, subsequent processing and production of secondary raw materials, preference is given to their disposal at landfills or landfills. The most eloquent indicator can be seen in the figures according to which Ukraine disposes of about 95% of all its own household waste, covering more than 9 thousand hectares of land. Along with this, only waste glass, scrap metal and waste paper are reused to some extent, which has almost no effect on reducing the volume of waste disposed of in landfills [13]. Not only are the data themselves stunning, but they also contrast sharply with the background of European countries. For example, in our neighboring Poland, only 44% of the total amount of household waste is buried (the other part is recycled), and with Sweden, any comparisons are generally inappropriate, because this country demonstrates an incredible and impressive quality of less than one percent [14].

Our state's attraction to waste disposal is most often explained by its economic attractiveness compared to recycling, because the latter is almost ten times more expensive. However, such an argument is very controversial, since the secondary raw materials obtained as a result of the processing process more than recoup the funds spent on the entire processing cycle. In addition, obtaining secondary raw materials could help Ukraine solve some of the problems of resource dependence, which are also of considerable concern. For example, China, realizing that secondary raw materials are gradually becoming established as a full-fledged product of international trade, is not at all shy about purchasing huge volumes of waste, processing them on its own territory. Less developed countries also recognize the economic benefits of buying and selling waste, but they act somewhat differently. They accept hazardous waste for the purpose of generating funds, but do not recycle it, but add it to their own and carry out the disposal process, completely ignoring the potential environmental risks [15]. In general, transportation of waste, including hazardous waste, is, objectively speaking, a fairly liquid business in which powerful cross-border corporations are involved.

A more realistic reason for the dominant approach to waste disposal by landfill in Ukraine is the virtual lack of processing capacity (only one plant in Rivne is partially operational). Even with a great desire to build modern waste processing complexes (plants), to find funds in the state budget, where every hryvnia and every penny is allocated to the smallest detail,

the task is almost utopian, especially considering the high cost of such construction. One cannot count on investments from international companies, since the investment field of our state does not inspire confidence [16]. At the same time, it is interesting that at the legislative level Ukraine seems to be moving in the right direction. Thus, in 2017, the National Waste Management Strategy in Ukraine until 2030 was adopted, according to the provisions of which the volume of solid waste disposal at landfills should be gradually reduced: from 95% at the time of adoption of the Strategy to 50% in 2023 and to 30% directly in 2030 [17]. True, now positive changes have a numerical expression of only two percent. Taking this into account, it becomes clear that fundamental transformations have not occurred, the Strategy is not working, and waste recycling is still unattractive to investors.

At the same time, despite the obvious danger to the natural environment, this situation contains threats to the development of the economy of both individual regions (Dnepropetrovsk, Zaporozhye, Kharkov, Donetsk, Lugansk regions), but also of Ukraine as a whole. It is worth noting that in the world, waste disposal and recycling has remained one of the priority areas of development for a relatively long time, including being an unconditional and necessary component of the system of intranational economies.

Hazardous waste should become a revenue part of the state budget, are the basis for solving the country's energy problems, help reduce the cost of urban planning activities, so income from things defined as "unnecessary" acquire the properties of useful things. Despite the existing possibilities for converting industrial hazardous waste into secondary energy resources, Ukraine is not introducing innovative technologies for their processing. Of the large volumes of global mineral production, amounting to tens of billions of tons, only 5–10% are used directly in production. The remains of extracted raw materials become waste from mining and processing industries. This waste contains substandard minerals, overburden and host rocks, waste from mining and metallurgical complexes, constituting the majority (70–80%) of the total mass of solid, liquid and gas and dust waste from all major industries [18, p. 4]. Over the 125 years of exploitation of iron ore deposits, the regions of Krivoy Rog (the cities of Krivoy Rog, Kaminsky, Dnepr, Mariupol, Donetsk, Zaporozhye, etc.) have become a zone of environmental disaster, where a sharp increase in the volume of waste containing microparticles and toxic substances poses a significant threat to resources. atmosphere, hydrosphere and lithosphere and indicates the limitations of their natural

self-healing. By the way, this is 15% of the territory of Ukraine, which belongs to the category of “extremely polluted regions with an increased risk to human health and areas of environmental disaster.” 70% of the territories in this region have lost their natural landscape and have become naturally hazardous and mostly dangerous. The undoubted reason, among other things, is the low efficiency of the implementation of state and regional policies for the processing of hazardous waste.

This indicates the relevance of the issue of hazardous waste management.

As already noted, the issue of legal regulation of hazardous waste management is a problem that has the nature of a comprehensive intersectoral study and requires the concentrated efforts of representatives of technical, economic, environmental, and legal sciences.

As part of the research carried out on the issues of ensuring environmental safety requirements for the management of hazardous waste, an approach is substantiated, the essence of which boils down to the search for directions for optimizing such activities in close connection not only with improving the economic component of such activities, but also the legal level of regulation. Thus, in the scientific developments of G. P. Evgrashkina, N. P. Sherstyuk, I. A. innovative technologies and economic tools for business optimization [19, p. 31–32]. However, despite the practical demand for solving the problem of legal regulation of hazardous waste management, the current legislation of Ukraine has not yet defined their administrative and legal regime. Thus, within the framework of the Law of Ukraine “On Waste,” the category of “industrial” waste is mentioned only once (clause “i” of Article 42) in the context of determining the grounds for liability of persons guilty of violating waste legislation [20]. In addition, despite the existence of a requirement to establish special grounds for applying administrative liability measures for violation of the use of hazardous waste in accordance with the provisions of the current administrative and tort legislation of Ukraine, it has not been defined. Thus, the current administrative and tort legislation, without specification of types of waste, provides for administrative liability for “Tearing and pollution of agricultural and other lands” (Article 52 of the Code of Administrative Offenses), “Damage to forests by wastewater, chemicals, oil and petroleum products, harmful emissions” (Article 72 of the Code of Administrative Offenses), “Contamination of forests with waste” (Article 73 of the Code of Administrative Offenses), “Violation of waste management requirements during their collection, transportation, storage, processing, disposal, neutralization, disposal or burial” (Article 82 of the Code of Administrative

Offenses), “Violation rules for maintaining primary accounting and monitoring waste management operations or failure to submit or submit reports on the generation, use, neutralization and disposal of waste” (Article 82-1 of the Code of Administrative Offenses), "Production of products from waste or using it without the appropriate regulatory and technical and technological documentation" (Article 82-2 of the Code of Administrative Offenses), “Concealment, distortion or refusal to provide complete and reliable information at the request of officials and appeals from citizens and their associations on the safety of waste generation and handling” (Art. 82-3 of the Code of Administrative Offenses), “Mixing or dumping of waste, for the disposal of which appropriate technology exists in Ukraine, without special permission” (Article 82-4 of the Code of Administrative Offenses), “Violation of the rules for the transfer of waste” (Article 82-5 of the Code of Administrative Offenses), “ Violation of the established rules and operating regime of installations and production facilities for waste treatment and disposal” (Article 82-6 of the Code of Administrative Offenses), “Concealing the excess of established limits on the volume of waste generation and disposal” (Article 91-3 of the Code of Administrative Offenses). Special grounds for administrative liability are established for committing an act related to the disposal of unprocessed (unprocessed) household waste (Article 82-8 of the Code of Administrative Offenses), failure to take measures to ensure the protection of soporific poppy or hemp crops, places of their storage and processing (Article 10.1 of the Code of Administrative Offenses), violation of the procedure for the extraction, production, use and sale of precious metals and precious stones, precious stones of organogenic formation and semi-precious stones (Article 189-1 of the Code of Administrative Offenses) [21].

In accordance with the requirements of Article 339 of the Association Agreement between Ukraine and the European Union, the need to determine a special regime for the management of hazardous (industrial) waste is established [22]. Consequently, one of the conditions for the success of Ukraine’s European integration processes is the establishment at the legislative level of the specifics of the regime for handling hazardous (industrial) waste. Currently, in modern conditions, the only regulatory mention of the concept of “industrial (hazardous) waste” or the concept of “industrial waste” is carried out in accordance with the provisions of the State Classification of Waste, which is a document of information support and waste management [23]. Thus, according to the State Classification of Waste, it is determined that waste, depending on its origin, is divided into production waste (industrial waste) (within the framework of this study,

the use of the concept “hazardous” refers to a synonymous categorical series); and household waste (consumer waste or consumer waste). However, in Ukraine there is not a single legal act establishing a regime for the management of hazardous waste [24; 25]. The absence of a regulatory and legal basis in accordance with the current legislation of Ukraine for the classification of waste and the determination of the degree of danger of their use has a negative consequence of further deepening the dangerous environmental disaster.

## **CONCLUSION**

Thus, the use of hazardous waste in Ukraine occurs in conditions of absolute regulatory uncertainty. In accordance with the established requirements of the Association Agreement between Ukraine and the European Union, it is necessary, at the level of a special legislative act, to determine the specifics of the use of hazardous (industrial) waste, to determine the regulatory grounds for classifying hazardous waste according to the degree of their environmental hazard, to establish a special procedure and grounds for applying legal liability measures in the event of violation or improper implementation of such regime provisions.

Thus, in Ukraine, the problem of accumulation of hazardous waste lies in the lack of an adequate number of equipped landfills for the disposal of toxic industrial waste, in the absence of enterprises for their disposal and specification, in the absence of an adequate number of centralized points for collection, recycling, neutralization and disposal by type of waste (including .ch. .ch. toxic), which must be generated in virtually all enterprises, which results in uncontrolled processes of waste placement and accumulation both on the enterprises’ own territories and on agricultural lands and on residential and public development lands. Activities using hazardous waste are characterized as being carried out in violation of environmental safety requirements, and are therefore defined as contrary to national security and defense standards.

Taking into account the classification of the task of optimizing the hazardous waste management regime as a strategic task of a modern state as a component of the national security system, its solution requires intensifying the role and importance of public authorities. The management of hazardous waste requires the use of an administrative-legal regime and refusal in the field of private-legal regulation with a dominant dispositive method of influence. It should be noted that despite the fairly widespread practice of using the category “administrative legal regime”, its normative definition is still under scientific discussion. In

general, the application of the concept of “legal regime” is not exclusively an administrative category. This term is constantly introduced in the regulation of both private law and public law relations, which indicates its ambiguity and complexity of application.

## **SUMMARY**

The purpose of the article is to characterize the legal framework for hazardous waste management in Ukraine, to establish the priority of ensuring control and transparency of administration in this area of social and economic life. The methodology of this study is based on the method of structural and logical analysis and the application of the modeling method to formulate acceptable and necessary directions for optimizing hazardous waste management processes, including through the digitalization of public administration. The author concluded that the use of hazardous waste in Ukraine occurs under conditions of absolute regulatory uncertainty. The author noted that in accordance with the established requirements of the Association Agreement between Ukraine and the European Union, it is necessary, at the level of a special legislative act, to determine the specifics of the use of hazardous (industrial) waste, to determine the regulatory grounds for classifying hazardous waste according to the degree of their environmental hazard, to establish a special procedure and grounds for the use of measures legal liability for violation or improper implementation of such regime provisions. It has been determined that in Ukraine the problem of accumulation of hazardous waste lies in the lack of an adequate number of equipped landfills for the disposal of toxic industrial waste, in the absence of enterprises for their disposal and specification, in the absence of an adequate number of centralized points for collection, recycling, neutralization and disposal by type of waste. toxic), which must be generated in virtually all enterprises, which results in uncontrolled processes of placement and accumulation of waste both on the enterprises' own territories and on agricultural lands and on residential and public development lands. The author emphasizes that activities using hazardous waste are characterized as carried out in violation of environmental safety requirements, and therefore are defined as contrary to the standards of national security and defense. The conclusion is substantiated that, taking into account the classification of the task of optimizing the hazardous waste management regime as a strategic task of a modern state as a component of the national security system, its solution requires the activation of the role and importance of public authorities. It is noted that the management of hazardous waste



requires the use of an administrative-legal regime and refusal in the field of private legal regulation with a dominant dispositive method of influence.

**Key words:** regulatory support, hazardous waste, transparency, public administration, management, digitalization.

## REFERENCES

1. Про основні напрями державної політики України у галузі охорони довкілля, використання природних ресурсів та забезпечення екологічної безпеки: Постанова Верховної Ради України від 05 березня 1998 року № 188/98-ВР. *Відомості Верховної Ради України*. 1998. № 38–39. Ст. 248.
2. Зуєв В.А. Екологічна політика у сфері поводження з відходами в Україні на сучасному етапі. *Вісник Академії митної служби України. Сер.: Право*. 2014. № 1. С. 93–99.
3. Зуєв В.А. Організаційно-правові проблеми забезпечення реалізації громадської та виробничої екологічної політики у сфері поводження з відходами. Проблеми законності. 2014. Вип. 125. С. 138–144.
4. Кірін Р.С. Самовільне користування надрами: варіативність суб'єктів та об'єктивної сторони правопорушення. Бюлетень Міністерства юстиції України. 2013. № 7. С. 97–104.
5. Легеза Ю.О. Здійснення державної екологічної політики в умовах децентралізації державної виконавчої влади. *Науковий вісник Ужгород. нац. ун-ту. Серія Право*. 2016. № 38. Т. 1. С. 172–176.
6. Легеза Ю. О. Публічне адміністрування у сфері використання техногенних родовищ в Україні. *Visegrad journal on human rights*. 2015. № 5/2. С. 63–67.
7. Гладій О. В. Суб'єкти публічного управління у сфері регулювання, використання та охорони техногенних родовищ. *Право і суспільство*. 2017. № 1. С. 140–144.
8. Малишева Н.Р., Олещенко В.І. Правові аспекти збереження біорізноманіття в контексті сталого розвитку. Проблеми сталого розвитку України. К., 2001.
9. Шевченко О.А., Деркачов Е.А., Огір К.Д. та ін. Проблема методичних та екологічних ризиків у концепції сталого розвитку гірничо-металургійного комплексу Придніпров'я. *Екологічний вісник*. 2008. № 6. С. 27–28.

10. Кашук Д. Як вирішити проблему утилізації відходів. URL: <https://nv.ua/ukr/biz/experts/shcho-bude-z-cinami-na-zhitlo-2174620.html>

11. Забруднення територій небезпечними відходами в Україні загрожуватиме екологічними й техногенними катастрофами – Голова Держекоінспекції Андрій Мальований. Офіційний сайт Державної екологічної інспекції України. URL: <https://www.dei.gov.ua/posts/1035>

12. Canada produces the most waste in the world. The US ranks third. – Hristina Byrnes and Thomas C. Frohlich (24/7 Wall Street). URL: <https://www.usatoday.com/story/money/2019/07/12/canada-united-states-worlds-biggest-producers-of-waste/39534923/>

13. Правова охорона довкілля: сучасний стан та перспективи розвитку: монографія. А. П. Гетьман, А. К. Соколова, Г. В. Анісімова [та ін.]; за ред. А. П. Гетьмана. Х.: Право, 2014. С. 656–657.

14. Зеркалов Д. В. Екологічна безпека та охорона довкілля: монографія. К.: Основа, 2012.

15. Кращі європейські практики управління відходами (посібник). А. Войціховська, О. Кравченко, О. Мельнь-Забрамна, М. Панькевич, за заг. ред. О. Кравченко. Львів: Видавництво «Компанія “Манускрипт”», 2019. 64 с.

16. Мягченко О. П. Основи екології: підручник. К.: Центр учбової літератури, 2010.

17. Крилов Д. В. Важелі організаційно-економічного механізму реалізації інвестиційних проектів на промислових підприємствах. *Науковий вісник НЛТУ України*. 2015. Вип. 25.4. С. 240–247.

18. Про схвалення Національної стратегії управління відходами в Україні до 2030 року: Розпорядження, Стратегія від 08.11.2017 р. № 820-р/ Кабінет Міністрів України. Урядовий кур’єр від 22.11.2017 р., № 220; Офіційний вісник України від 01.12.2017 р., № 94. стор. 61. стаття 2859. URL: <http://zakon5.rada.gov.ua/laws/show/820-2017-%D1%80>

19. Олійник О. М. Правове регулювання охорони надр за законодавством України : автореф. дис. ... канд. юрид. наук: 12.00.06. Київ, 2010. 16 с.

20. Євграшкіна Г. П., Шерстюк Н. П., Власова І. А. Екологічна експертиза територій, що прилягають до хвостосховища Північного гірничо-збагачувального комбінату (Кривбас). *Екологічний вісник*. 2009. № 1. С. 31–32.

21. Про відходи : Закон України від 05 квітня 1998 р. № 187/98-ВР.  
URL: <https://zakon.rada.gov.ua/laws/show/187/98-%D0%B2%D1%80>

22. Кодекс України про адміністративні правопорушення: Закон УРСР від 7 грудня 1984 року № 8073-Х. *Відомості Верховної Ради Української РСР*. 1984. додаток до № 51. Ст. 1122.

23. Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони: Закон України № 1678-VII від 16 вересня 2014 року. *Офіційний вісник України*. 2014. № 75. Ст. 83. URL: [https://zakon.rada.gov.ua/laws/show/984\\_011#Text](https://zakon.rada.gov.ua/laws/show/984_011#Text)

24. Державний Класифікатор відходів ДК 005-96: Наказ Державного комітету по стандартизації, метрології та сертифікації України від 29.02.1996 № 89. URL: <https://zakon.rada.gov.ua/rada/show/v0089217-96#Text>

25. Державний класифікатор відходів: класифікація відходів на основі системи обліку. URL: <https://ecolog-ua.com/news/derzhavnyy-klyasyfikator-vidhodiv-klyasyfikaciya-vidhodiv-na-osnovi-systemy-obliku>

#### **Information about the author:**

**Leheza Yu. O.,**

Professor of the Department of Civil, Economic and Environmental Law of the Dnipro University of Technology, Doctor of Law, Professor, 19, Dmytra Yavornytskoho Avenue, Dnipro, 49005, Ukraine  
ORCID: 0000-0002-4896-3178

DOI <https://doi.org/10.30525/978-9934-26-369-9-12>

### **ПРИНЦИПИ АДМІНІСТРАТИВНО-ДЕЛІКТНОГО ПРАВА: ЗАГАЛЬНОТЕОРЕТИЧНА ХАРАКТЕРИСТИКА**

**Лукашук В. В.**

**Постановка проблеми.** Триваючі реформи системи законодавства у сфері застосування заходів адміністративної відповідальності обумовлюють необхідність з'ясування нормативних основоположних засад їх реалізації. Такими засадами є принципи адміністративно-деліктного права. Запровадження нової національної доктрини адміністративно-деліктного права є