

# ORGANIZATIONAL-LEGAL FOUNDATIONS OF STATE ADMINISTRATION OF INFORMATION RESOURCES (OR SPHERE)



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Among the major priorities of Ukraine is building an information society orientated towards the interests of people, open to all, in which everyone might create and accumulate information concerning knowledge, have free access thereto, use and exchange information so as to provide the opportunity to every individual to fully realize his potential, promote social and personal development, and raise the quality of life<sup>1</sup>. The unbridled growth in Ukraine of the significance of information resources in all spheres of human

activity confirms the justness of the expression: «He who possesses information, possesses the world».

Information (from the Latin: explanation, communication, exposition) is pieces of information about objects and phenomena of surrounding reality, the parameters thereof, the properties and states which reduces the degree of uncertainty and incompleteness of knowledge about these objects and phenomena; data which are used to receive new knowledge and adopt decisions. Information may be represented in the form of sig-

<sup>1</sup> Основні засади розвитку інформаційного суспільства в Україні на 2007–2015 роки [Fundamental Principles of the Development of an Information Society in Ukraine in 2007–2015], confirmed by Law of Ukraine of 9 January 2007. Відомості Верховної Ради України (2007), no. 12, item 102.

nals, signs, sounds, mobile and immobile depictions, and other means. Public information is specially singled out – reflected and documented with the assistance of any means and on any carriers of information, received or created in the process of the fulfillment by subjects of authoritative powers of their duties provided by legislation in force, or that which is in the possession of such subjects and other disposers of public information determined by a law (Article 1, Law of Ukraine «On Access to Public Information»).

Such information is purposefully systematized, group, and presented in various models – information resources accessible for use in daily life and in professional activity. By information resources are understood information accessible for use in all spheres of the activity of man, society, and the State stored on respective carriers of information as documents, bases, data banks, and knowledge, registers, cadastres, archives, libraries, museum funds, and other information in electronic form or in the form of cards which are in the ownership of some subject of information relations and serves to satisfy the information requirements of citizens, juridical persons, and the State. The information has the necessary requisites which enables it to be identified; the determinative criterion for relegating information resources to State resources are the sources of the origin and financing thereof. Information resources are treated in the form of information flows of national and foreign origin functioning on the territory of the State in its information space.

The Law of Ukraine «On Information» understands information to be any pieces of information and/or data which may be stored on material carriers or reflected in electronic form. By its content, information is subdivided into:

information on a natural person, information of an encyclopedic reference character concerning the state of the environment (ecological information), concerning a good, work, or service, scientific-technical, tax, legal, statistics, sociological, and other types of information (Article 10), Law on Information). All citizens, juridical persons, and State agencies have the right to information which provides for the possibility of their free effectuation by them of such types of information activity as the collection, receipt, use, defense, dissemination, and storage of information necessary for the realization of their rights, freedoms, legal interests, and duties, and also the tasks and functions placed on them.

The receipt of information is the acquisition, finding, and accumulation in accordance with legislation of Ukraine of documented or publicly divulged information by citizens, juridical persons, and the State; use of information is the satisfaction of information requirements by citizens, juridical persons, and the State; dissemination of information is the dissemination, promulgation, and realization in the procedure established by a law of documented or publicly divulged information; defense of information is a complex of legal, organizational, and informational-telecommunications means and measures directed towards the prevention of unlawful actions with respect to information; storage of information is ensuring the reliable state of information and the carriers thereof. The procedure for information activity is established by legal norms, including by means of determining the regimes for access to information.

Information is subdivided by access regime into open information and information with limited access. Any information is open except that relegated by a

law to information with limited access. Access to open information is ensured by means of the systemic publication thereof in official printed publications, bulletins, or collections; dissemination thereof by mass media, or the direct provision thereof to interested citizens, State agencies, and juridical persons.

Information with limited access is subdivided in accordance with its legal regime into confidential, secret, and official (Article 21, Law «On Information»). Confidential information is that concerning a natural person, and also information, access to which is limited by a natural or juridical person, except subjects of authoritative powers. Access thereto is effectuated at the wish or by the consent of these persons in accordance with a procedure or conditions determined by them, and in other instances provided by a law. To this category of information is relegated, in particular, that concerning the name of a natural person who is detained, suspected, or accused of the commission of crime, or a person who has committed an administrative violation: they may be used or published only in the event of the entry into legal force of a judgment of conviction of a court with respect to this person or rendering of a decree in a case concerning an administrative violation, and also in other instances provided by a law; information concerning the name of a victim of a violation may be published only with his consent (Article 296, Civil Code of Ukraine)<sup>1</sup>; medical secret (Article 40, Fundamental Principles of Legislation of Ukraine on Health Protection)<sup>2</sup>; banking secret (Article 60, Law of Ukraine on Banks and Banking Activity)<sup>3</sup>; personification of informa-

tion (Article 23, Law of Ukraine «On Information»); Article 2, Law of Ukraine «On Defense of Personal Data»<sup>4</sup>; and others.

To the category of secret information is relegated that containing an element of State or other secrecy provided by a law, the dissemination of which causes harm to a person, the State, or society. Relegating information to the category of secret and comprising a State secret and access thereto is effectuated in accordance with the Law of Ukraine «On State Secrecy»<sup>5</sup>.

Official information is that: (a) which is contained in documents of subjects of authoritative powers comprising an intra-departmental employment correspondence, memorandums, and recommendations if they are connected with working out orientations of activity of an institution or the effectuation of control or supervisory functions by agencies of State power or the process of decision-making and precede public discussion and/or the adoption of decisions; (b) collected in the process operational-search or counterintelligence activity in the spheres of the defense of Ukraine and are not relegated to the category of a State secret. Documents containing official information are conferred by the cipher «for official use», and access thereto is effectuated in the procedure established by a law. The list of information relegated to the category of official information is drawn up by agencies of State power, agencies of local self-government, and other subjects of authoritative powers, including in execution of delegated powers, and may not be limited in access (Article 8, Law of Ukraine «On Access to Public Information»).

<sup>1</sup> W. E. Butler (ed. & transl.), Civil Code of Ukraine (Kyiv, 2011), p.

<sup>2</sup> *Відомості Верховної Ради України* (1994), no. 16, item 93, as amended.

<sup>3</sup> *Відомості Верховної Ради України* (2001), no. 5, item 30, as amended.

<sup>4</sup> *Відомості Верховної Ради України* (2010), no. 34, item 481, as amended.

<sup>5</sup> *Відомості Верховної Ради України* (1994), no. 16, item 93, as amended.

Natural and juridical persons, associations of citizens, and subjects of authoritative powers who acquire rights and duties provided by law in the process of information activity are participants of information relations (Article 4, Law of Ukraine «On Information»). Not any information is an object of information relations, but that respectively processed; that is, fixed on a material carrier — paper, tape, cinema, video or photo film, or other carrier storing the information in the form of a document. These documents are ordered and grouped into respective funds, registers, cadastres, and other data banks which comprise various national information resources.

Thus, the elements of library resources are ordered funds of documents on various carriers of information, the reference and search apparatus, and the material-technical means of processing, storing, and transfer of information (Article 1, Law of Ukraine «On Libraries and Librarianship»)<sup>1</sup>. The national archive fund consists of the aggregate of archival documents reflecting the history of the spiritual and material life of the Ukrainian people and other peoples which have cultural value and are the heritage of the Ukrainian nation (Article 1, Law of Ukraine «On the National Archive Fund and Archival Institutions»)<sup>2</sup>. With a view to preventing the harmful impact of dangerous factors on human health and the environment in Ukraine a State register is kept (Article 9, Law of Ukraine «On Ensuring Sanitary and Epidemiological Well-Being of the Population»)<sup>3</sup>. On the basis of the Law of Ukraine «On Resorts»

(Articles 36 and 37)<sup>4</sup>, State cadastres are kept of nature territories of Ukrainian resorts and nature-treatment resources — the aggregate of systematized information concerning the legal status, affiliation, regime, geographical position, area, reserve of nature treatment resources, qualitative description of these territories, and their treatment, prophylactic, rehabilitation, nature-protection, scientific, recreational, and other values. The systematization of the data of the State recording of waters is effectuated by means of compiling the State water cadastre (Article 28, Water Code of Ukraine)<sup>5</sup>.

Sources of ionizing rays also are subject to State recording. This information is formulated in the State Register of Sources of Ionizing Rays — a uniform State system for recording and control. This register was created for the purpose of effectuating obligatory State registration of sources of ionizing rays, which ensures their recording and control over their location and movement, conducting an analysis of their quantity and quality, forecasting their accumulation, extent of servicing, requirements for production capacities of producer enterprises of sources of ionizing rays and specialized enterprises for the treatment of radioactive wastes (Article 18, Law of Ukraine «On the Use of Nuclear Power and Radiation Safety»<sup>6</sup>; Decree of the Cabinet of Ministers of Ukraine, 4 August 1997, «On the Creation of the State Register of Sources of Ionizing Rays»<sup>7</sup>).

The State is obliged constantly to be concerned for the timely creation and

<sup>1</sup> *Відомості* Верховної Ради України (1995), no. 7, item 45, as amended.

<sup>2</sup> *Відомості* Верховної Ради України (1994), no. 15, item 86, as amended.

<sup>3</sup> *Відомості* Верховної Ради України (1994), no. 27, item 218, as amended.

<sup>4</sup> *Відомості* Верховної Ради України (2000), no. 50, item 435, as amended.

<sup>5</sup> *Відомості* Верховної Ради України (1995), no. 24, item 189, as amended.

<sup>6</sup> *Відомості* Верховної Ради України (1995), no. 12, item 81, as amended.

<sup>7</sup> *Офіційний вісник України* (1997), no. 32, p. 6.

properly functioning and development of information systems, networks, banks, and data banks in all orientations of information activity and determine the procedure for the handling of the said information resources.

Certain legal and organizational foundations have been formed in Ukraine for the management of information resources that have been consolidated in the 1996 Constitution of Ukraine (Articles 32, 34) and legislative acts. The laws of Ukraine «On Information» and «On Access to Public Information» elaborate the constitutional foundations of the right to information, set out the fundamental principles of information activity, and consolidate the right of a person to information in all spheres of social and State life of Ukraine, and also the system of information, sources thereof, and determine the status of participants of information relations, regulate access to information, ensure the protection thereof, and defend the person and society against untrue information.

In accordance with the Fundamental Principles of the Development of an Information Society in Ukraine for 2007–2015, confirmed by Law of Ukraine on 9 January 2007, one of the priority orientations of the development of an information society is the development of a generally-accepted information infrastructure of the State which should be formed, in particular, by the development of national, branch, and regional information systems, networks, and electronic resources, informational-analytical systems of agencies of State power and agencies of local self-govern-

ment; the creation in electronic form of archival, library, museum, and other funds of institutions of culture, the forming of respective informational-library and information-search systems for the history, culture, folk creativity, and contemporary art of Ukraine, and others.

A legislative base has been created and is developing in Ukraine for the effectuation of the State management of information resources: nearly 600 laws and decrees of the Supreme Rada of Ukraine have been adopted which directly or indirectly regulate information relations in various spheres of social life. Individual questions of the effectuation of information relations have also been regulated by edicts of the President of Ukraine, decrees of the Cabinet of Ministers of Ukraine, and numerous normative acts of ministries, other central agencies of executive power, and the like. Therefore, the need for the codification of information legislation by means of the adoption of an Information Code of Ukraine has ripened<sup>1</sup>.

The legal and organizational foundations of information management also have been consolidated in a number of legislative acts concerning individual branches, spheres, tyhpes, forms, and means of information, in international treaties and agreements ratified by Ukraine, and also in principles and norms of international law. The major examples among these are the laws of Ukraine «On the National Informatization Program»<sup>2</sup>; the «National System of Confidential Communications»<sup>3</sup>; the «Defense of Information in Automated Systems»<sup>4</sup>; «On State Secrecy»<sup>5</sup>;

<sup>1</sup> See Section III, point 2, Fundamental Principles of the Development of an Information Society in Ukraine for 2007–2015.

<sup>2</sup> *Відомості Верховної Ради України* (1998), nos. 27–29, item 181, as amended.

<sup>3</sup> *Відомості Верховної Ради України* (2000), no. 15, item 103, as amended.

<sup>4</sup> *Відомості Верховної Ради України* (1994), no. 31, item 286, as amended.

<sup>5</sup> *Відомості Верховної Ради України* (1994), no. 16, item 93, as amended.

«On Telecommunications»<sup>1</sup>; «On Information Agencies»<sup>2</sup>; «On Printed Mass Media (Press) in Ukraine»<sup>3</sup>; «On Television and Radio Broadcasting»<sup>4</sup>; «On Scientific-Technical Information»<sup>5</sup>; «On State Statistics»<sup>6</sup>; «On the Procedure for the Illumination of the Activity of Agencies of State Power and Agencies of Local Self-government in Ukraine by the Mass Media»<sup>7</sup>; «On the Defense of Personal Data»<sup>8</sup>; and others.

Edicts of the President of Ukraine create the legal foundation for the origin and development of information resources in Ukraine. We refer especially to the Edict of the President of Ukraine of 31 July 2000, «On Measures for the Development of the National Element of the Global Information Network Internet and Ensuring Wide Access to this Network in Ukraine»<sup>9</sup>, in accordance with which extensive access is ensured to this network by citizens and juridical persons and the proper representation thereon of national information resources is one of the priority orientations of State policy in the sphere of informatization, satisfaction of the constitutional rights of citizens to information, and building of an open democratic society. The basic tasks for the development of the Internet and means of resolving them are determined by this Edict.

On the basis of the Edict of the President of Ukraine of 24 September 2001, «On Certain Measures for the

Defense of State Information Resources in Data Transfer Networks»<sup>10</sup>, the Cabinet of Ministers of Ukraine on 12 April 2002 confirmed the Procedure for the Connection to Global Data Transfer Networks<sup>11</sup>, established the recording of enterprises (or operators) providing services for access to these data transfer networks to agencies of executive power, other enterprises, institutions, and organizations receiving, processing, disseminating, and storing information which is an object of State ownership and protected by a law.

The mechanism for the realization of information laws is revealed in the subordinate acts of the Cabinet of Ministers of Ukraine. In accordance with the Law of Ukraine «On Ensuring Sanitary and Epidemiological Well-Being of the Population» (Article 9), the Cabinet of Ministers by a Decree of the Cabinet of Ministers of Ukraine on 13 June 1995, No. 420, confirmed the Statute on the Hygienic Regulation and State Registration of Dangerous Factors<sup>12</sup>; in accordance with the Law of Ukraine «On Fauna» (Article 56), the Cabinet of Ministers of Ukraine on 15 November 1994, No. 772, confirmed the Statute on the Procedure for Keeping the State Cadastre of Fauna<sup>13</sup>; pursuant to the Law of Ukraine «On Court Organization and the Status of Judges» (Concluding Provisions, Section XIII, point 14(2)), the Cabinet of Ministers by a Decree of 5 January 2011 confirmed the Statute on

<sup>1</sup> *Відомості Верховної Ради України* (2004), no. 12, item 155, as amended.

<sup>2</sup> *Відомості Верховної Ради України* (1995), no. 13, item 83, as amended.

<sup>3</sup> *Відомості Верховної Ради України* (1993), no. 1, item 1, as amended.

<sup>4</sup> *Відомості Верховної Ради України* (1994), no. 10, item 43, as amended.

<sup>5</sup> *Відомості Верховної Ради України* (1993), no. 33, item 345, as amended.

<sup>6</sup> *Відомості Верховної Ради України* (1992), no. 43, item 608, as amended.

<sup>7</sup> *Відомості Верховної Ради України* (1997), no. 49, item 299, as amended.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Офіційний вісник України* (2000), no. 31, item 1300.

<sup>10</sup> *Офіційний вісник України* (2001), no. 39, item 1757.

<sup>11</sup> *Офіційний вісник України* (2002), no. 16, item 864.

<sup>12</sup> *ЗП Уряду України* (1995), no. 8, item 219.

<sup>13</sup> *ЗП Уряду України* (1995), no. 1, item 27.

the Unified Data Base of E-Mail Addresses and Fax Numbers (or Tele-Faxes) of Subjects of Authoritative Powers<sup>1</sup>; and others.

The norm-creative activity of the Cabinet of Ministers of Ukraine also is directed towards ensuring the legal and organizational foundations of the development of State information resources. In execution of the Edicts of the President of Ukraine of 31 July 2000, «On Measures for the Development of the National Component of the Global Internet System and Ensuring Broad Access to this Network in Ukraine», and of 17 May 2001, «On the Preparation of Proposals to Ensure Glasnost and Openness of the Activity of Agencies of State Power»<sup>2</sup>, the Cabinet of Ministers of Ukraine by Decree of 4 January 2001 confirmed the Procedure for the Publication on the Internet of Information concerning the Activity of Agencies of Executive Power<sup>3</sup> and obliged ministries, central agencies of executive power, Council of Ministers of the Autonomous Republic Crimea, and the regional, Kyiv, and Sevastopol city State administrative to ensure the placement and constant renewal of the information of their own websites.

In execution of the Edict of the President of Ukraine of 1 August 2002, «On Additional Measures for Ensuring Openness in the Activity of Agencies of State Power»<sup>4</sup>, the Cabinet of Ministers of Ukraine confirmed measures for the creation of the information system «Electronic Government»<sup>5</sup>, called upon

to ensure the interaction of agencies of executive power between themselves and with citizens and juridical persons on the basis of modern information technologies. A single web-portal of agencies of executive power intended to integrate websites, electronic information systems, and resources of agencies of executive power and render information and other services with the use of the Internet is a central part of this system.

With a view to determining the foundations and creation of conditions to achieve European standards of quality of services, openness, and transparency of the activity of agencies of State power and agencies of local self-government, and also the fulfillment of the basic provisions of the Program for Economic Reforms for 2010 to 2014, «Well-Off Society, Competitive Economy, Effective Power», by Regulation of the Cabinet of Ministers of 13 December 2010, No. 2250-p, the Conception for the Development of Electronic Management in Ukraine<sup>6</sup> was approved, and others.

The peculiarities of the organization of handling different types of information resources in branches and spheres of State administration are consolidated in numerous departmental normative acts of the Ministry of Transport and Communications<sup>7</sup>, State Committee for Television and Radio Broadcasting of Ukraine, and other central agencies of executive power.

With a view to improving the information provision of State agencies, enterprises, institutions, and organiza-

<sup>1</sup> Урядовий кур'єр, 18 January 2011.

<sup>2</sup> Урядовий кур'єр, 22 May 2001.

<sup>3</sup> Офіційний вісник України (2002), no. 2, item 57.

<sup>4</sup> Офіційний вісник України (2002), no. 31, item 1463.

<sup>5</sup> Офіційний вісник України (2003), no. 9, item 378.

<sup>6</sup> Урядовий кур'єр, 5 January 2011.

<sup>7</sup> In accordance with the Edict of the President of Ukraine of 9 December 2010, «On Optimization of the System of Central Agencies of Executive Power», the Ministry of Transport and Communications of Ukraine was reorganized into the Ministry of Infrastructure of Ukraine. Урядовий кур'єр, 14 December 2010.

tions, social organizations, and citizens in the sphere of standardization, metrology, and certification, by order of the State Committee of Ukraine for Standardization, Metrology, and Certification of 13 July 1995, No. 245, confirmed the Statute on the National Information Center for Standardization and Certification of the International Information Network ISONET<sup>1</sup>.

Agencies of State power of general competence (Supreme Rada of Ukraine, President of Ukraine, Cabinet of Ministers of Ukraine, Government of Autonomous Republic Crimea, and local State administrations) effectuate the management of information resources, as well as agencies of local self-government and agencies of State power of special (branch or interbranch) competence (Ministry of Infrastructure of Ukraine, State Committee for Television and Radio Broadcasting of Ukraine, State Statistics Service of Ukraine, State Information Geological Fund of the State Service of Geology and the Subsoil of Ukraine, and others).

As an agency of State power of general competence, the Supreme Rada of Ukraine, first, determines the foundations of State information policy as the aggregate of basic orientations and means of activity of the State with regard to the receipt, use, dissemination, and storage of information. The principal orientations thereof are: ensuring access of everyone to information; ensuring equal opportunities to create, collection, receipt, store, use, disseminate, protect, and defend information; the creation of conditions for forming an information society in Ukraine; ensuring openness and transparency of the activity of subjects of authoritative powers; the creation of information networks and systems; the

development of electronic management; the constant renewal, enrichment, and preservation of national information resources; ensuring the information security of Ukraine; promoting international cooperation in the information spheres and the entry of Ukraine into world information space (Article 3, Law of Ukraine «On Information»). In order to promote and work out State policy in this sphere, the Supreme Rada of Ukraine by Decree of 4 February 1998 created the Consultative Council for Questions of Informatization, members of which are scholars in the sphere of informatics, representatives of enterprises working in the sphere of information services, people's deputies of Ukraine, and representatives of agencies of executive power. Decisions to be adopted by this council must be considered by committees of the Supreme Rada of Ukraine.

Second, the Supreme Rada of Ukraine determines individual spheres, types, forms, and means of information, established the regime for access to information and responsibility for a violation of legislation in this sphere, and also exercises control over compliance with the established regime of access to information.

The President of Ukraine ensures information security as an element of national security of the State and is endowed with significant authoritative powers in this sphere. As the Head of the National Security and Defense Council of Ukraine, the President of Ukraine by his edicts introduces the decisions thereof into force. Thus, by Edict of the President of Ukraine of 21 July 1997, «On Urgent Measures to Order the System of Effectuation of State Information Policy and Improvement of State Regulation of Information Relations»<sup>2</sup> introduced into

<sup>1</sup> *Бюлетень нормативних актів України* [Bulletin of Normative Acts of Ukraine], no. 12 (1995), p. 54.

<sup>2</sup> *Урядовий кур'єр*, 24 July 1997.



force a decision of the National Security and Defense Council of 17 June 1997; by Edict of the President of Ukraine of 21 March 2008, the decision of the National Security and Defense Council of 21 March 2008 was introduced into force «On Urgent Measures to Ensure Information Security of Ukraine»<sup>1</sup>.

In order to exercise his powers in the information sphere, the President of Ukraine created by Edict of 22 January 2002 consultative bodies such as the Interdepartmental Commission for Questions of Information Policy and Information Security attached to the National Security and Defense Council of Ukraine<sup>2</sup>. Among the basic tasks of this Commission are to analyze the state and possible threats to the national security of Ukraine in the information sphere and to summarize international experience with regard to forming and the realization of information policy. The Commission also drafts and submit to the President of Ukraine and to the National Defense and Security Council proposals relating to determining the national interests of Ukraine in the information sphere, conceptual approaches to forming State information policy and ensuring the information security of the State, defense of national information space, and entry of Ukraine into world information space, and improvement of the system of legal and scientific provision for the information security of Ukraine, and others.

Among the management organs of information resources, an important role is played by the Cabinet of Ministers (or Government) of Ukraine, on which the implementation of State policy is placed in the sphere of informatization and promoting the development of a single information space on the territory of

Ukraine (Article 20, Law of Ukraine «On the Cabinet of Ministers of Ukraine»). These tasks of the Government are clarified in a number of laws. Thus, in accordance with the Law of Ukraine «On the National Informatization Program» (Articles 9 and 10), the Government annually together with the draft law on the State budget of Ukraine for the next year submits for consideration of the Supreme Rada of Ukraine a report where questions such as the following are considered: on the state of informatization in Ukraine; on the tasks of the National Informatization Program for the next three years; on the program of tasks or work with regard to informatization for the next budget year with a determination of the sources for financing. The Government also confirms the General State customer and State customers of individual tasks or projects of this program. The Law of Ukraine «On the Radio Frequency Resource of Ukraine» (Article 10) places on the Cabinet of Ministers: (1) confirmation of the National Table for the Distribution of Radio Frequencies and Plan for Use of the Radio Frequency Resource of Ukraine; (2) coordination of the activity of central agencies of executive power for the administration and use of the radio frequency resource of Ukraine; (3) the establishment of the amount of charges for the use of the radio frequency resource of Ukraine and amounts of payment for the issuance, reformalization, and continuation of the period, and the issuance of a duplicate license for use of the radio frequency resource of Ukraine. The Government also drafts the procedure for the use of means provided in the State budget of Ukraine for State programs in the information sphere (the «Information and Organizational Provi-

<sup>1</sup> Урядовий кур'єр, 8 Мау 2008.

<sup>2</sup> Офіційний вісник України (2002), no. 4, item 132.

sion for the Participation of Ukraine in International Forums, Conferences, and Exhibitions»<sup>1</sup>; «Fulfillment of Measures for Questions of European and Euro-Atlantic Integration in the Information Sphere»<sup>2</sup>; «Collection, Processing, and Dissemination of Official Information Product»<sup>3</sup>; and others). The Cabinet of Ministers of Ukraine also has the right to create permanently-operating working organs or coordinating councils for the purpose of harmonization of the activity of agencies of executive power in the sphere of the turnover of information resources.

The specially empowered central agency of executive power for ensuring the realization of State information policy is the State Committee for Television and Radio Broadcasting of Ukraine (Goskomteleradio Ukraine), whose basic tasks are, in particular, to manage in the information sphere; promote the realization of the constitutional right to freedom of speech, ensure the development of the information sphere, expand national information space. In execution of the said tasks, Goskomteleradio Ukraine: (1) prepares proposals for forming State policy in the information sphere and determination of priority orientations for the development thereof; (2) takes measures for information provision of support for innovative process in the State and the development of the national component of the global Internet, expansion of the range of means and improvement of the methods for the publication on the Internet of objective socio-political, economic, educational, legal, scientific-technical, and other types of information about Ukraine; (3) works out drafts for expanding access to national information resources and

takes measures to introduce the newest information technologies; (4) takes respective measures to enhance the level of information provision for citizens and introduce European standards for society being informed; (5) renders methods assistance to press services, informational-analytical subdivisions, and subdivisions for mutual assistance with the mass media and links with the public of agencies of executive power; (6) prepares proposals for improving the system for management of the information sphere, works out measures to prevent the internal and external information influence threatening the national interests of the State; (7) takes measures to expand the information sphere and enhance its information possibilities and effectiveness; (8) directs and controls the activity of administrations for the press and information of regional State administrations, Kiev and Sevastopol city State administrations; (9) effectuates international cooperation in the information and publishing spheres; (10) licenses and controls specialized mass media of a sexual or erotic character and controls the existence of licenses held by subjects of economic management and their compliance with the license conditions; (11) takes measures to ensure the development and functioning of the Ukrainian language as the State language in the information sphere; (12) promotes the publication and dissemination abroad of information heralds, bulletins, and other printed, audiovisual, and electronic products for the provision thereof to Ukrainians residing beyond the limits of the State, and so on.

The Ministry of Education and Science, Youth, and Sport of Ukraine is the principal agency within the system of

<sup>1</sup> *Офіційний вісник України* (2007), no. 12, item 416.

<sup>2</sup> *Офіційний вісник України* (2007), no. 18, item 717.

<sup>3</sup> *Офіційний вісник України* (2007), no. 18, item 722.

central agencies of executive power in forming and ensuring the realization of State policy in the sphere of information. In execution of the said tasks, the Ministry determines the priority orientations of the development of the information sphere, ensures the normative legal regulation thereof, summarizes the practice of applying legislation with regard to questions relegated to its competence, informs, and also gives explanations, with regard to the effectuation of State policy, and others.

The realization of State information policy is placed on the State Agency for Science, Innovations, and Information of Ukraine, which has the status of a central agency of executive power and whose activity is directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Education and Science, Youth, and Sport. This agency renders administrative services in this sphere, effectuates State control or supervision over the activity of participants of information legal relations, manages objects of State ownership, summarized the practice of application of legislation on questions relegated to the jurisdiction thereof, and others.

The Ministry of Infrastructure of Ukraine as the legal successor of the Ministry of Transport and Communications of Ukraine is the primary agency within the system of central agencies of executive power in forming and ensuring the realization of State policy in the sphere of telecommunications and informatization. The Ministry of Infrastructure takes part in forming and realizing State policy in this sphere. In execution of the tasks placed, the Ministry determines the priority orientations of the development of the sphere of telecommunications and informatization, ensures the normative-legal regulation

thereof, summarizes the practice of the application of legislation on questions relegated to its competence, and the like.

Empowered State agencies and their officials directly manage the information resources by creating, accumulating, processing, using, disposing of, and storing information through the creation of respective information systems – funds, data banks, registers, cadastres, and the like. The State as the owner of information determines the rules for processing it, access to it, and also other conditions (Article 6, Law of Ukraine «On Information»).

Thus, in order to ensure transparency and openness in the activity of subjects of authoritative powers and the creation of mechanisms for the realization of the right of everyone to access to public information, the Law of Ukraine «On Access to Public Information» guarantees: (1) the duty of those who dispose of information to provide and publish the information, except for instances provided by a law; (2) determination by those who dispose of information of special structural subdivisions or officials organizing in the established procedure access to public information which they possess; (3) maximal simplification of the procedure for submitting a query to obtain information; (4) access to sessions of collegial subjects of authoritative powers, except for instances provided by legislation; (5) exercise of parliamentary, civil, and State control over compliance with the rights to access to public information; (6) legal responsibility for a violation of legislation on access to public information (Article 3, Law of Ukraine «On Access to Public Information»). Access to such information is ensured by means of: (a) systematic and operational publication of information in printed publications, on official Internet websites; in information stands; by other

means; (b) provision of information upon requests for information.

There are relegated to subjects of legal relations in the sphere of access to public information: (1) persons requesting information – natural and juridical persons, associations of citizens without the status of a juridical person, except subjects of authoritative powers; (2) those who dispose of information – subjects of authoritative powers: (a) agencies of State power, other State agencies, agencies of local self-government, agencies of power of the Autonomous Republic Crimea; other subjects effectuating power administrative functions in accordance with legislation and whose decisions are binding; (b) juridical persons financed from the State or local budgets, budget of the Autonomous Republic Crimea – with regard to information concerning the use of budget means; (c) persons exercising delegated powers of subject of authoritative powers in accordance with a law or contract, including the rendering of educational, health, social, or other State services – with regard to information connection with the fulfillment of their duties; (d) economic subjects holding a dominant position on the market or endowed with special or exclusive rights, or natural monopolies – with regard to information concerning the conditions for the delivery of goods, services, and prices for them.

Subjects of economic management are equated to those who dispose of information that are obliged to public and provide information upon request if the possess information concerning: the state of the environment; the quality of food products and articles of daily life; accidents, catastrophes, dangerous natural phenomena, and extraordinary situa-

tions which occurred or might occur threatening the health or safety of citizens; other information of interest (socially necessary information). The subject of legal relations in this sphere is (3) a structural subdivision or responsible person who ensures access of persons requesting information (Articles 13 and 14, Law of Ukraine «On Access to Public Information»). The Law «On Access to Public Information» determines the fundamental principles for the management of this information (Articles 14 to 22, Law).

One type of information is statistical – documented information quantitatively characterizing mass phenomena and processes occurring in the economic, social, cultural, and other spheres of the life of society (Article 18, Law of Ukraine «On Information»). The Law of Ukraine «On State Statistics» places on the State Statistics Committee of Ukraine<sup>1</sup> and its territorial and functional agencies the carrying out of State statistical activity by means of statistical observations. The foundation thereof comprises the Unified State Register of Enterprises and Organizations of Ukraine – an automated system for the collection, accumulation, and processing of data concerning all juridical persons, branches, divisions, and representations thereof, and other solitary structural subdivisions on the territory of Ukraine, and also juridical persons beyond the limits of Ukraine and created with the participation of juridical persons of Ukraine.

For State statistics agencies to fulfill the tasks placed on them, the Law of Ukraine «On State Statistics» endows them, in particular, with these basic powers: to take decisions with regard to questions of statistics, recording, and

<sup>1</sup> At present, the State Statistics Service. See Edict of the President of Ukraine of 9 December 2010, «On Optimization of the System of Central Agencies of Executive Power».

reporting which are obligatory by all subjects to whom the operation of this Law extends; to receive free of charge in the procedure and within established periods from all respondents and natural persons subject to statistical observation and to use primary and statistical data, bookkeeping data, and other information necessary for carrying out statistical observations; apply while conducting State statistical observation with respect to natural persons subject to these observations the method of direct visiting by workers of the State statistics agencies of their living and economic premises and structures, land plots, and so on; study the state of primary recording and statistical reporting, verify the reliability of primary and statistical data provided by residents with the use of the method of direct visiting production, employment, and other premises, sectors, and so on of juridical persons, branches, divisions, and representations thereof, and other solitary structural subdivisions, and also citizens-subjects of entrepreneurial activity; demand from respondents the submission of corrections in statistical reports, other statistical formularies in the event additions and other distortions of primary and statistical data are identified; submit to law enforcement agencies proposals to bring those officials and citizens-subjects of entrepreneurial activity guilty of a violation of the requirements of a law to responsibility provided by laws; consider cases concerning administrative violations and impose fines in accordance with a law; carry on statistical observations and render services on a paid basis; provide statistical information; comment in the incorrect use or interpretation of statistical information.

Among the principal duties of State statistics agencies is the organization and carrying out of statistical observations over social-economic and demographic processes and the ecological situation in Ukraine and its regions; socio-demographic and economic status of the population, the entrepreneurial activity thereof, and so on; provision to agencies of State power and agencies of local self-government of statistical information in the amounts, according to the forms, and within the periods determined by the plan for State statistical observations or by individual decisions of the Cabinet of Ministers of Ukraine; ensure glasnost of statistical information and equal access thereto; conduct research and projects in branches of statistics; confirm statistical methodologies and statistical reporting documentation of statistical observations, and also standard forms for primary record documentation necessary to conduct them and keep the Unified State Register of Enterprises and Organizations of Ukraine; ensure the improvement of the technologies for processing statistical information, the storage, accumulation, actualization, and compliance with confidentiality, and others.

The management of ecological information resources is effectuated by the Ministry of Ecology and Natural Resources of Ukraine<sup>1</sup> and its territorial agencies, on whom the keeping of the State cadastres of natural resources (recording of quantitative, qualitative, and other characteristics of natural resources), State recording of objects harmfully influencing the state of the natural environment; ensuring the forming and functioning of geographical, ecological, geological, and other information

<sup>1</sup> The Ministry of Ecology and Natural Resources of Ukraine is the legal successor of the Ministry of Protection of the Natural Environment. See Edict of the President of Ukraine of 9 December 2010, «On Optimization of the System of Central Agencies of Executive Power».

systems, and also the keeping of the State cadastres of flora and fauna, participation in keeping the State water cadastre; keeping the Red Book of Ukraine and the Green Book of Ukraine; forming the State fund of mineral deposits of Ukraine and the State Subsoil Fund; ensuring the State registration and recording of work relating to the geological study of the subsoil and topographical-geodesic and cartographic work; keeping the State record and monitoring of underground waters; determination of the content and amount of information subject to obligatory transfer to the State Information Geological Fund of Ukraine, State Cartographic Fund of Ukraine, the procedure for the recording and use of this information, and also the disposition thereof; participation in work for the development of the national system of seismic observations and enhancement of the level of safety of the population residing in seismic regions of Ukraine, and also the creation of data banks and bases for geospatial data; ensuring the creation and keeping of the State register of Geographical Names; ecological information provision, and others.

With a view to the realization of State policy in the sphere of topographical-geodesic, cartographic, and cadastre activity, the creation of a national geodesic system of reckoning connected with European and world systems of coordinates, and the national infrastructure of geospatial data, the establishment, norming, recording, registration, use, and storage of geographical names, within the Ministry of Ecology and Natural Resources of Ukraine the State Service of Geodesy, Cartography, and Cadastres has been created (hereinafter — Ukrgeogostkartografia)<sup>1</sup>. Ukrgeo-

gostkartografia, in particular, keeps the State record of topographical-geodesic and cartographic work, ensures the preservation of materials received from the results of the fulfillment thereof, forms and ensures the keeping of the State Cartographic-Geodesic Fund, regional cartographic-geodesic funds, digital and electronic map data bases, geospatial data; take part in publishing activity in the sphere of geodesy, cartography, and cadastres.

The Ministry of Ecology and Natural Resources of Ukraine is the holder of the ecological cadastres and funds and the monitoring studies in the sphere of natural resources. Ecological information provision for State agencies, agencies of local self-government, enterprises, institutions, organizations, and also citizen is also placed on it. This activity is effectuated by means of: (a) the preparation and submission for consideration of the Supreme Rada of Ukraine of the annual National Report on the state of the natural environment in Ukraine, and after the consideration thereof, publication as a separate book and being placed on the internet; (b) annually informing by the Council of Ministers of the Autonomous Republic Crimea, regional state administrations, Kyiv and Sevastopol city State administrations of the respective soviets and the population about the state of the natural environment of the respective territories; (c) systematic informing of the population through the mass media about the state of the natural environment, dynamics of the change thereof, sources of pollution, siting of wastes or other impact of ecological factors on human health; (d) immediate informing about extraordinary ecological situations; (e) transfer of information received as a result of monitoring the envi-

<sup>1</sup> See the Statute on the State Service of Geodesy, Cartography, and Cadastres, confirmed by Decree of the Cabinet of Ministers of Ukraine, 24 September 2005. Офіційний вісник України (2005), no. 39, item 2480.

ronment through channels of information links to agencies empowered to take decisions with regard to this information; (f) ensuring free access to ecological information which is not a State secret and is contained in lists, registers, archives, and other sources.

An important role in ensuring the management of information resources is played by the establishment and application of administrative responsibility for violations in this spheres, by which should be understood infringements against social relations regulated by law arising and existing in the process of the effectuation of information activity, in particular, when receiving, using, disseminating, defending, and storing information by participants of information legal relations. The Code of Ukraine on Administrative Violations provides administrative responsibility for a violation of the right to individual types of information resources and information, a refusal to provide information, the provision of incomplete or unreliable information, the loss of information, and the like. The Code on Administrative Violations (Article 212<sup>3</sup>) established responsibility for the unlawful refusal to provide information, the untimely or incomplete provision of information, and the provision of information which does not correspond to reality in instances when this information is subject to provision at the request of a citizen or juridical person according to laws of Ukraine «On Information», «On Recourses of Citizens», «On Access to Public Information», and «On Access to Judicial Decisions»<sup>1</sup>. The common object of this violation is the established procedure of State administration; the generic object – social relations regulated by the laws of Ukraine «On Information», «On Recourses of Citizens», «On Access to Public Infor-

mation», and «On Access to Judicial Decisions», and other normative acts which arise and exist during the realization by subjects of the constitutional right to information; the direct object of the violation is the right of citizens (or juridical persons) to information which provides the possibility, in particular, of free receipt and use of information necessary for the realization of their rights, freedoms, and legal interests (or effectuation of the tasks and functions placed on them).

The objective side of the violation is manifest primarily in the form of a failure to act (or failure to perform or improper performance of the requirements of a law on the provision of information), namely: in the unlawful refusal to provide information, untimely or incomplete provision thereof, or of information which does not correspond to reality.

The regime of access to information established by laws subdivides it into open and limited access information. In turn, these types of information are singled out by the laws «On Information» (Article 21) and «On Access to Public Information» (Article 6) among the information with limited access:

[1]. Confidential (that is, information in the ownership, use, or disposition of individual natural or juridical persons and disseminated at their wish in accordance with the conditions provided by them and in the procedure determined by them).

[2]. Secret (information containing data comprising a State or other secret provided by a law (professional, banking, secret of investigation, or other provided by a law), the divulgence of which would cause harm to a person, the State, or society). The commercial secret of an enterprise constitutes information connected with the production, technologi-

<sup>1</sup> *Відомості Верховної Ради України* (2006), no. 15, item 128.

cal information, management, finances and other activity of the enterprise which is not a State secret, the divulgence of which (or transfer, leak) may cause harm to the interests thereof. The amount and composition of such information and the procedure for the defense thereof are determined by the executive of the enterprise, institution, or organization. By Decree of the Cabinet of Ministers of Ukraine of 9 September 1993<sup>1</sup>, No. 611, a list of information was confirmed which is not a commercial secret, namely: constitutive documents, documents giving the right to engage in entrepreneurial or economic activity and individual types thereof; information with regard to all forms of State statistical reporting established by a law; data necessary to calculate and pay taxes and other obligatory payments; information concerning the number and composition of persons working, their earnings as a whole, and by vocations and posts, and the existence of vacant jobs; documents concerning the payment of taxes and obligatory payments; information concerning pollution of the natural environment, failure to comply with labor safety conditions, realization of products which caused harm to health, and also other violations of legislation of Ukraine in the amount of damage caused by this; documents regarding solvency; information concerning the participation of officials of an enterprise in cooperatives, small enterprises, unions, associations, and other organizations engaging in entrepreneurial activity; information subject to publication according to legislation in force.

A banking secret is information concerning the activity and financial state of a client which became known to the bank in the process of servicing the

client and mutual relations with it, or third persons when providing banking services, and the dissemination of which may cause material or moral harm to the client. The Law of Ukraine «On Banks and Banking Activity» (Article 60)<sup>2</sup> relegates to such information: information concerning the state of client accounts; operations conducted to the benefit or on behalf of a client, and transactions effectuated by him; financial-economic state of clients; system of protection of a bank and clients; information concerning the organizational-legal structure of a client-juridical person, executives thereof, and orientations of activity; information concerning reporting on a specific bank, except for that subject to publication; codes used by banks for the defense of information.

[3]. Official (information contained in documents of subjects of authoritative powers comprising intra-departmental official correspondence; collected in the process of operational-search activity, in the spheres of the defense of Ukraine and not relegated to a State secret, and others, on which the cipher «for official use» is conferred).

There are relegated to the category of confidential information, in particular, that concerning a person – the aggregate of documented or publicly published information under which a person is identified or may be identified. The basic data concerning a person (personal data) are: nationality, education, family status, religious convictions, state of health, and also address, and date and place of birth (Article 11, Law «On Information»); medical information is that concerning the state of health of a person, history of illness, purposes of proposed examinations and treatments, prediction of possible development of an

<sup>1</sup> ЗП Уряду України (1993), no. 12, item 269.

<sup>2</sup> Відомості Верховної Ради України (2001), no. 5–6, item 30.



illness, including the existence of a risk to life or health (Articles 39 and 40), Fundamental Principles of Legislation of Ukraine on Health Protection; points 1 and 2, Decision of Constitutional Court of Ukraine of 30 October 1997, No. 5-зп/ре: an official interpretation of Articles 3, 23, 31, 47, and 48, Law «On Information»; and Article 12, Law «On the Procuracy» (Re: K. G. Ustymenko)<sup>1</sup>. It also is prohibited without the consent of a person or without the consent of his legal representative and psychiatrist rendering psychiatric assistance to publicly show a person suffering from a mental illness, photograph him, or make a film, video recording, sound recording, or listen to conversations of this person with medical personnel who are rendering psychiatric care to him. Documents which contain information about the mental health of a person and the rendering of such assistance to him must be kept in compliance under conditions guaranteeing the confidentiality thereof (Article 6, Law of Ukraine «On Psychiatric Assistance»)<sup>2</sup>.

The dissemination of information concerning minors who have committed a crime, crimes committed with respect to minors, and also the suicide of a minor, if such information enables the identity of the minor to be identified, is not permitted without the consent of parents or persons replacing them (Article 41, Law of Ukraine «On Television and Radio Broadcasting»). The rights of minors to limit access to information also is provided by the 1985 United Nations Standard Minimum Rules for the Administration of Juvenile Justice («Beijing Rules»), adopted by the United Nations General

Assembly, which prohibit the publication of any information that might lead to the identification of a juvenile (point 8.2)<sup>3</sup>. A corresponding provision was consolidated in the United Nations Convention on the Rights of a Child of 20 November 1989 (Article 16)<sup>4</sup>.

Information contained in declarations of State employees filed by them on the basis of the Law of Ukraine «On State Service» (Article 13) in the procedure provided by Decree of the Cabinet of Ministers of Ukraine of 11 August 1995, No. 641, «On the Application of Article 13 of the Law of Ukraine «On State Service»»<sup>5</sup> and other normative acts also is confidential. However, declarations concerning the revenues of persons and their family members are not relegated to the category of information of limited access who: (1) seek to hold or hold elective office in agencies of power; (2) occupy the post of a State employee or employee of an agency of local self-government or the I or II categories.

Information concerning operational and investigative work of Procuracy agencies, the Ministry of Internal Affairs, Security Service of Ukraine, and of agencies of enquiry and the court is not subject to divulgence when the divulgence thereof may cause harm to operational measures, the investigation, or inquiry, violate the right to a fair trial, or create a threat to the life or health of any person. However, the 1960 Code of Criminal Procedure of Ukraine (Article 121), as amended, provides for the possibility of disclosing data of a pre-judicial investigation with the authorization of the investigator or procurator to the extent to which they deem this to be

<sup>1</sup> Офіційний вісник України (1997), no. 46, p. 84.

<sup>2</sup> Відомості Верховної Ради України (2000), no. 19, item 143, as amended.

<sup>3</sup> *Ukrainian-American Office for the Protection of Human Rights, Права людини та професійні стандарти для юристів в документах міжнародних організацій* [Human Rights and Professional Standards for Jurists in Documents of International Organizations] (Amsterdam-Kyiv, 1996), pp. 55–71.

<sup>4</sup> *Ibid.*, pp. 55–71.

<sup>5</sup> ЗП Уряду України (1995), no. 12, item 279.

necessary; Article 7 of the Law of Ukraine «On the Procuracy»<sup>1</sup> prohibits the data of verifications and pre-judicial investigation to be divulged before the end thereof without the authorization of the procurator or investigator. An advokat is obliged to keep advokat secrecy. The subject-matter thereof is questions with regard to which a citizen or juridical person has applied to an advokat and the essence of consultations, advice, explanations, and other information received by the advokat when effectuating his professional duties (Article 9, Law of Ukraine «On the Advokatura»)<sup>2</sup>.

As a whole, the Law of Ukraine «On Access to Public Information» (Article 6) provides that limitation of access to information is effectuated in accordance with a law when complying with the aggregate of these demands: (1) solely in the interests of national security or public order with a view to averting violations of law or crimes, in order to protect the health of the population, to defend reputations, or the rights of other people, to avert the divulgence of information received confidentially, or to maintain the authority and impartiality of the administration of justice; (2) the divulgence of information may cause material harm to these interests; (3) harm from the publication of such information prevails over the public interest in the receipt thereof.

The provision of access to a judicial decision is refused on those grounds indicated in the Law «On Access to Judicial Decisions» (Article 9): (1) a person has resorted to a court who does not have procedural dispositive legal capacity, or in the name of an interested person who lacks respective powers; (2) materials of the file of the case have been transferred to another court or for

keeping to a State archival institution; (3) the judicial decision does not directly concern the rights, freedoms, interests, or duties of this person.

These and other grounds for a refusal to provide information or to provide incomplete information have been provided by legislative acts. In all other instances a refusal to provide information provided by the Laws «On Information», «On Recourses of Citizens», and «On Access to Public Information» or the provision of incomplete information is a violation of the right to information that constitutes grounds for bringing the guilty official to administrative responsibility.

The Law «On Recourses of Citizens» provided for the possibility of applicants to receive written information concerning the results of the consideration of the recourse (Articles 14, 15, 18, and 19). The applicant also has the right to active participation in information legal relations by means of access to information in the process of verifying the recourse, and also familiarization with the materials of the verification (Article 18, Law). At the request of the applicant, he may be invited to a session of the respective agency considering his application or appeal (Article 19, Law). A refusal of the realization of these rights or the limitation thereof is possible only by taking into account regime determined by a law of access to information. A refusal to provide information should be regarded also as an unsubstantiated return of the recourse (Articles 5 and 7, Law «On Recourses of Citizens»).

The Law «On Access to Public Information» (Article 20) provides that the period for giving a response to a query for information should not exceed 5 working days from the day of receipt

<sup>1</sup> Відомості Верховної Ради України (1991), no. 53, item 793, as amended.

<sup>2</sup> Відомості Верховної Ради України (1993), no. 9, item 62, as amended.

thereof. When the query concerning information concerns information necessary for the defense of the life or freedoms of a person, the state of the environment, the quality of food products and articles of daily life, accidents, catastrophes, dangerous natural phenomena, and other extraordinary incidents which occurred or might occur and threaten the safety of citizens, the reply to this query must be given not later than 48 hours from the day of receipt of the query. A petition concerning the urgent processing of the query must be substantiated by the requesting person. Postponement of satisfaction of the question for up to 20 working days also is possible, concerning which the applicant is informed in writing not later than 5 working days from the day of receipt thereof.

The Law «On Recourses of Citizens» (Article 20) provides for a general period for the consideration of recourses — not more than one month from the day of receipt thereof, and also a reduced period — for those which do not require additional study — immediately, but not later than 15 days from the day of receipt thereof.

If within a month it is impossible to resolve the questions contained in an application, the empowered person shall establish a necessary period for the consideration thereof, of which the applicant is informed. The general period for the resolution of questions contained in an application may not exceed 45 days.

The Law «On Access to Judicial Decisions» provides that an application for access to a judicial decision is subject to consideration immediately, and if additional study thereof is required — within three working days (Article 9, Law). A violation of the said periods for the consideration of information queries and recourses of citizens may be classi-

fied as the untimely provision of information.

Information provided to citizens and juridical persons must be complete (that is, illuminate all questions put in the information query or recourse in essence), reliable, and also objective, that is, correspond to reality (Article 14, Law «On Access to Public Information»; Article 19, Law «On Recourses of Citizens»). The provision of incomplete information or information not corresponding to reality is a violation of the right to information.

A special subject may be the subject of a violation of law: (a) an official of agencies of legislative, executive, and judicial power, agencies of local self-government, other agencies fulfilling delegated powers among whose official duties in accordance with normative legal acts (laws, statutes, instructions, orders, and so on) are the consideration of queries concerning information and ensuring the provision of information in accordance with the Law «On Access to Public Information» (disposers of information); (b) an official of agencies of State power, local self-government, enterprises, institutions, and organizations, irrespective of forms of ownership, associations of citizens, mass media, and so on, among whose powers is the consideration of recourses of citizens (Articles 14–16 and 19, Law «On Recourses of Citizens»); (c) a responsible employee of the apparatus of a court (Article 9, Law «On Access to Judicial Decisions»).

On the subjective side, a violation of the right to information is characterized by the relation of the person to the violation of his official duties in this sphere. A violation is considered to be committed intentionally if the official who committed it was aware of the unlawful character of his act, provided for the harmful

consequences thereof, and wished or consciously permitted the ensuing of these consequences (Article 10, Code on Administrative Violations). An administrative violation is deemed to be committed through negligence if the person who committed it foresaw the possibility of the ensuing of harmful consequences of his act but light-heartedly reckoned on the averting thereof or did not foresee the possibility of such consequences, although he should and could have prevented them (Article 11, Code on Administrative Violations). Negligence (or neglect or self-assurance) is primarily the form of guilt of the offender in such violations. Otherwise, there may be grounds to bring the guilty person to responsibility for crimes against employment (for example, under Article 367, Criminal Code of Ukraine).

Article 212<sup>3</sup> of the Code on Administrative Violations establishes respon-

sibility of an official for repeating within a year the commission of a violation from among those provided by paragraph one of that Article and for which the person was previously subjected to administrative punishment.

A protocol concerning a violation provided by Article 212<sup>3</sup> of the Code on Administrative Violations is drawn up by the procurator of empowered person from among procuracy workers (Article 255, Code on Administrative Violations); Article 56, Law «On the Procuracy»), in compliance with the requirements provided by Articles 256 and 268 of the Code on Administrative Violations and the Constitution of Ukraine (Article 63). Cases concerning such violations are provided by judges of local courts within a 15-day period from the day of receipt of the protocol on an administrative violation.

**Bytiak Yu., Cherviakova O. Organizational-Legal Foundations of State Administration of Information Resources (or Sphere)**

**Summary.** This article is devoted to organizational-legal foundations of state administration of information resources (or sphere). The powers of the legislative and executive authorities, as well as the President of Ukraine on information resource management are analyzed. On the basis of the provisions of the laws of Ukraine «On information», «On Access to Public Information», «On access to judicial decisions», «On appeals of citizens» and others disclosed the nature of administrative responsibility for violation of right to information.

**Key words:** information resources, information, right to information, administrative responsibility.

**Битяк Ю. П., Червякова Е. Б. Организационно-правовые основы государственного управления информационными ресурсами (информационной сферой)**

**Аннотация.** Статья посвящена организационно-правовым основам государственного управления информационными ресурсами (информационной сферой). Анализируются полномочия органов законодательной и исполнительной власти, а также Президента Украины по управлению информационными ресурсами. На основе анализа положений законов Украины «Об информации», «О доступе к публичной информации», «О доступе к судебным решениям», «Об обращениях граждан» и др. раскрыта сущность административной ответственности за нарушение права на информацию (ст. 212<sup>3</sup> КУоАП).

**Ключевые слова:** информационные ресурсы, информация, право на информацию, административная ответственность.