

Research Article

# THE RIGHT TO SAFE DRINKING WATER AS A CONDITION FOR ENSURING HUMAN HEALTH AND LIFE: LEGAL REGULATION AND JUDICIAL PROTECTION IN UKRAINE AND OTHER COUNTRIES

**Maryna Cherkashyna\*, Alla Sokolova and Robert C. Brears**

## ABSTRACT

**Background:** *The global shortage of safe drinking water combined with urgent challenges regarding the safeguarding and sustainable management of this vital natural resource underscores the need to secure the human right to clean water access. This article explores legal water protection and examines the regulatory framework ensuring the right to safe drinking water as a critical condition for health and survival, both in Ukraine and globally. It defines the challenges of judicial protection of this right at national and global levels. Drawing on the European Union's experience, the article suggests incorporating provisions highlighting the essential role of water resources and their direct impact on human health and well-being. Accordingly, the authors recommend improving the Constitution of Ukraine by making some amendments and revisions to environmental and healthcare legislation.*

**Methods:** *This study employs a multidisciplinary methodology that combines general philosophical, scientific, specialised, and legal approaches to thoroughly examine the legal frameworks governing the human right to safe drinking water. These frameworks are crucial for protecting human health and life in Ukraine and beyond. The authors employed descriptive and analytical methods of inquiry, along with techniques for interpreting legal norms. The challenges of legal regulation were examined through the study of both international and national legal frameworks. Consequently, different methods were used for the research, such as dialectical, formal-logical, analytic and synthetic, system-structural, formal-legal, comparative legal, legal norm interpretation, prognostic, legal modelling, and logical-legal methods.*

**Results and Conclusions:** *This study explores the legal regulation of the human right to safe drinking water as an essential part of health and life in Ukraine and in every country around the world. It also analyses the judicial protection of this right at both global and national levels. A key finding is that ensuring legal support for the right to safe drinking water is a fundamental environmental human right by making it recognised in the Constitution of Ukraine, the Fundamentals of Health Legislation, the Law of Ukraine “On Environmental Protection,” and the Water Code of Ukraine. This would significantly enhance access to clean water and sanitation, aligning with Ukraine’s Water Strategy, targeted for completion by 2050. Without equitable access to safe water, fulfilling essential rights such as health, well-being, an adequate standard of living, and even civil and political rights is unattainable. The application of the European Court of Human Rights (ECHR) case law on environmental violations is crucial for improving judicial practice in Ukraine. It strengthens citizens’ rights through the European Convention on Human Rights and helps address legal gaps, particularly in safeguarding access to water. National courts must integrate ECHR jurisprudence when addressing issues related to water rights. Codifying the human right to safe drinking water in Ukrainian law will empower national courts to enforce this norm, laying the groundwork for a comprehensive protection system.*

## 1 INTRODUCTION

Water is a priceless treasure on planet Earth. It is vital for human health and overall survival, directly related to the realisation of human rights<sup>1</sup> and defined as the source of life and all living beings.<sup>2</sup> Access to safe drinking water and sanitary conditions is important for maintaining the health and dignity of all people.<sup>3</sup>

The right to clean water is “considered a derivative, meaning an adequate standard of living and is linked to the highest attainable standard of physical and mental health, as well as to life and human dignity.”<sup>4</sup> Human rights scholars and experts promote the enshrining of the right to safe water, arguing that other basic rights cannot be realised without this right.<sup>5</sup> For example, inadequate water quality in Ukraine hinders citizens

---

1 ‘Global Issues: Water’ (*United Nations*, 2018) <<https://www.un.org/en/global-issues/water>> accessed 3 October 2024.

2 Ban Ki-Moon, ‘Secretary-General’s Message on World Water Day’ (*United Nations*, 22 March 2010) <<https://www.un.org/sg/en/content/sg/statement/2010-03-22/secretary-generals-message-world-water-day>> accessed 3 October 2024.

3 OHCHR, UN-HABITAT, WHO. *The Right to Water* (Human Rights no 35, UN 2010).

4 UN Human Rights Council Resolution 15/9 ‘Human Rights and Access to Safe Drinking Water and Sanitation’ (30 September 2010) para 3 <<https://digitallibrary.un.org/record/691661?ln=en>> accessed 3 October 2024.

5 Nora Hansén, ‘The Human Right to Water and its Status in International Law’ (Independent thesis, Faculty of Law Stockholm University 2018).

from exercising their rights, including the general use of water, in a manner that does not jeopardise their health and well-being.<sup>6</sup>

Ukrainian legal scholars have conducted research highlighting the challenges associated with ensuring the human right to safe drinking water.<sup>7</sup> Their research addresses issues such as the quality of safe drinking water in rural areas,<sup>8</sup> current trends and problems of international legal regulation of relations between states on such issues as the right to clean water and sanitary conditions,<sup>9</sup> and the protection and quality of groundwater both nationally and internationally.<sup>10</sup> Moreover, they have analysed environmental and legal concepts such as “pollution” and “pollutants” within the context of Ukrainian and European water legislation. Their studies have also focused on aligning the Ukrainian environmental and legal institute of water quality with

6 Maryna Trotska, Maryna Cherkashyna and Alla Sokolova, 'Implementation and Protection of the Right to General Water Use in Ukraine: Main Theoretical Problems and Certain Aspects of Judicial Dispute Resolution' (2023) 6(1) Access to Justice in Eastern Europe 84, doi:10.33327/AJEE-18-6.1-a000103.

7 NM Obijuh, 'The Human Right to Drinking Water: Development Trends and Guarantees of Implementation' (2013) 26(2-2) Scientific notes of Taurida National VI Vernadsky University, Series: Juridical Sciences 174; NM Obijuh, 'Peculiarities of Legal Regulation of Relations in the Sphere of Use of Sources of Drinking Water Supply in Ukraine' (2014) 3 Bulletin of the Ministry of Justice of Ukraine 135; Nataliya M Obijuh, 'Legal Support for the Use of Sources of Drinking Water Supply in Ukraine' (PhD thesis, National University of Life and Environmental Sciences of Ukraine 2015); NM Obijuh, 'Ensuring the Right to Drinking Water in International Legal Doctrine' (2022) 8 Juridical Scientific and Electronic Journal 571, doi:10.32782/2524-0374/2022-8/130; KD Yanishevskaya and AD Skoryk, 'The Right to Drinking Water as an Axiom in Human Rights' (2018) 10 Young Scientist 699; SS Jatcenko, 'Meaningful Fulfillment of the Right to Drinking Water' (2014) 3 Forum Prava 456 <[http://nbuv.gov.ua/UJRN/FP\\_index.htm\\_2014\\_3\\_77](http://nbuv.gov.ua/UJRN/FP_index.htm_2014_3_77)> accessed 3 October 2024; AS Yevstigneyev, 'Legal Regulation of Drinkable Water Supply Priority in Ukraine' (2011) 1 Forum Prava 335 <[http://nbuv.gov.ua/UJRN/FP\\_index.htm\\_2011\\_1\\_56](http://nbuv.gov.ua/UJRN/FP_index.htm_2011_1_56)> accessed 3 October 2024.

8 Volodymyr Yermolenko and others, 'Quality of Drinking Water in Rural Areas: Problems of Legal Environment' (2021) 280 E3S Web of Conferences 0902, doi:10.1051/e3sconf/202128009022.

9 Andriy V Kulko, *International Legal Regulation of the Use and Protection of Transboundary Freshwaters* (Stilos 2018).

10 Maryna Cherkashyna, 'Transboundary Aquifers: Legal Problems of Ukraine and other Countries of the World' in O Jaremko and others (eds), *Actual Researches of Legal and Historical Science: International Scientific Internet Conference, Ternopil, Ukraine - Perevorsk, Poland, 8-9 February 2023* (FOP Shpak VB 2023) vol 47, 91; Maryna Cherkashyna, Alla Sokolova and Valeriy Yakovlev, 'Legal Problems of Ensuring the Quality of Underground Drinking Water in Ukraine' (2024) 1 Theory and Practice of Jurisprudence 74, doi:10.21564/2225-6555.2024.1(25).300682; Iryna Iefremova, Iryna Lomakina and Nataliia Obiukh, 'Groundwater Protection as an Essential Component of Water Management in the European Union in the Light of Modern Integration Processes: Legal Aspects of the Problem' (2019) 8(3) European Journal of Sustainable Development 354, doi: 10.14207/ejsd.2019.v8n3p354; OV Serdjuk, 'Groundwater in the System of Objects of Water Legal Relations' (2012) 1034 The Journal of VN Karazin Kharkiv National University, Series Law 369; Oleg V Serdjuk, 'Legal Principles of Groundwater Use' (PhD thesis, Yaroslav Mudryi National Law University 2014).

European Union standards,<sup>11</sup> addressing environmental rights as a prerequisite for citizens' right to healthcare, as well as ensuring the sustainable use of natural resources to uphold the human right to health care.<sup>12</sup>

Scholars from other countries have focused on issues related to the human right to clean water. Their research encompasses several areas, including the status of the right to safe water accessibility stated in international law,<sup>13</sup> water quality problems,<sup>14</sup> access to groundwater through the prism of human rights,<sup>15</sup> groundwater management in the context of its depletion and deterioration due to climate change,<sup>16</sup> and harmonisation of international water law with the right to safe water and sanitary standards.<sup>17</sup> Comparative analyses of water rights regulations in countries like Indonesia and South Africa have also been conducted.<sup>18</sup> Scholars from different countries also show interest in the effects of armed conflict on water resources,<sup>19</sup> with ongoing challenges in ensuring the protection of the right to drinking water during times of war and conflict.

- 
- 11 Volodymyr Uberman and Liudmyla Vaskovets, 'Step-by-step Approximation of the Ukrainian Ecological and Legal Institute of Water Quality and its Regulation to the Legislation of the European Union' in J von Blumenthal and others (eds), *Legislation of EU Countries: History, Shortcomings and Prospects for the Development* (Baltija Publ 2019) 334; Volodymyr Uberman and Liudmyla Vaskovets, 'The Concept of "Pollution" in Water Legislation of Ukraine and the EU and the Requirements of Post-War Environmental Security' (2023) 2 Law, State, Technology 16, doi:10.32782/LST/2023-2-3.
  - 12 Alla K Sokolova, Tetyana B Vilchik and Maryna K Cherkashyna, 'Ensuring the Environmental Rights as a Prerequisite for the Rights to Health in Ukraine and the European Union' (2019) 72(12-2) *Wiadomości Lekarskie* 2489, doi:10.36740/WLek201912216; Alla K Sokolova and Maryna K Cherkashyna, 'Legal Aspects of Using Natural Resources for Health and Recreational Purposes to Ensure Human Right to Health Care' (2021) 74(11-2) *Wiadomości Lekarskie* 3077, doi:10.36740/WLek202111237.
  - 13 Nehaluddin Ahmad, 'Human Right to Water under International Law Regime: An Overview' (2020) 46(3) *Commonwealth Law Bulletin* 415, doi:10.1080/03050718.2020.1770618; Hansén (n 5); Vasilka Sancin and Miha Juhart, 'The Right to Safe Drinking Water in International Law and in Slovenia's Legal Framework and Implementation' (2023) 18(34) *Journal of Agricultural and Environmental Law* 106, doi:10.21029/JAEL.2023.34.106.
  - 14 Martina Zeleňáková, Katarzyna Kubiak-Wójcicka and Abdelazim M Negm (eds), *Quality of Water Resources in Poland* (Springer Cham 2021) doi:10.1007/978-3-030-64892-3.
  - 15 Jenny Grönwall and Kerstin Danert, 'Regarding Groundwater and Drinking Water Access through A Human Rights Lens: Self-Supply as A Norm' (2020) 12(2) *Water* 419, doi:10.3390/w12020419.
  - 16 Eric L Garner, 'Adapting Water Laws to Increasing Demand and a Changing Climate' (2016) 41(6) *Water International* 883, doi:10.1080/02508060.2016.1214775.
  - 17 Imad Antoine Ibrahim, *International Water Law and the Human Right to Water: The Case of Transboundary Aquifers* (Routledge 2024) doi:10.4324/9781003537724.
  - 18 Riswandha Imawan, 'The Right to Water: A Comparative Study of Law in Indonesia and South Africa' (2023) 6(2) *Jambe Law Journal* 103, doi:10.22437/jlj.6.2.103-124.
  - 19 M Braijie, 'Water as an Object of International Legal Protection in the Case of Armed Conflict' (2017) 97(8) *Man in India* 217; Juliane Schillinger and others, 'Water in War: Understanding the Impacts of Armed Conflict on Water Resources and their Management' (2020) 7(6) *WIREs Water* e1480, doi:10.1002/wat2.1480; Gül Özerol and Juliane Schillinger, 'Water Management and Armed Conflict' in *Elgar Encyclopedia of Water Policy, Economics and Management* (Edward Elgar Publ 2024) 340.

At the global level, the current chronic shortage of safe and sufficient drinking water and the degradation of its quality poses a significant risk to humanity's sustainable development and the stability of many modern states. For example, in its 11 March 2024 Climate Risk Assessment, the European Environment Agency identified the main current and future impacts, ranging from large-scale floods observed in the EU in recent years to prolonged drought.<sup>20</sup> Extreme precipitation, heat, large-scale floods, and prolonged droughts contribute to water shortages and directly affect human health.

Thus, due to the growing need for drinking water, legal support for its proper quality, quantity, availability and legal issues related to realising and protecting access to clean and safe water remain relevant and increasingly important in the current environment.

The purpose of this article is threefold: 1) to analyse the legal framework governing the human right to drinking water as a critical condition for health and life in Ukraine and in the world; 2) to examine the legal challenges associated with the realisation and protection of the right to drinking water; and 3) to develop and substantiate proposals for enhancing the legal framework in this area, considering the experience of the European Union.

## 2 INTERNATIONAL LEGAL SOURCE WATER PROTECTION

Protecting water bodies is essential for ensuring safe, high-quality drinking water for the population. This involves various measures, such as regulating land use near water sources, promoting best management practices (BMPs) in agriculture, safeguarding wetlands and forests, and monitoring pollution sources. The primary goal is to prevent contamination and make water bodies suitable for drinking, recreation, and other purposes. By safeguarding these ecosystems, communities can enhance the health and well-being of their residents.

Effective source protection involves several strategies, including regulatory measures, land use planning BMPs, public awareness, and technological solutions.

Regulatory measures are crucial for protecting water sources. Governments and regulatory bodies establish standards and guidelines to control pollutants and safeguard water quality. Key strategies include setting pollutant discharge limits and restricting the amount of pollutants that industries, agriculture, and municipalities can release into water bodies. Regular monitoring and reporting ensure compliance, minimising contamination risks. Water quality standards are tailored for specific uses—such as drinking, recreation, agriculture, and industrial processes—and are grounded in scientific research, with periodic reviews to reflect new findings. Additionally, permitting systems for wastewater

---

20 European Environment Agency, *European Climate Risk Assessment: Executive Summary* (EEA Report no 01/2024, Publ Office of the EU 2024).

discharges and other activities that affect water sources are designed to control pollutants effectively, often incorporating conditions to minimise environmental impact.<sup>21</sup>

Vienna, Austria, became the first city in the world to legally safeguard drinking water by adopting the Vienna Water Charter. This innovative approach establishes high standards for water body protection, serving as a model for other cities. The city's forests also play a crucial role in this protection by filtering and storing rainwater, maintaining soil quality and shielding water sources from pollutants.<sup>22</sup>

Land use planning significantly protects water sources by controlling activities that could lead to contamination. Effective strategies include establishing buffer zones around water bodies that filter out pollutants before reaching the water. These zones typically contain vegetation that traps sediments and absorbs nutrients and contaminants. Protecting and restoring wetlands is vital as they act as natural filters, trapping pollutants and sediments and providing wildlife habitats. Wetlands also play a role in flood control and groundwater recharge. Implementing zoning regulations restricting high-risk activities, such as industrial operations and intensive agriculture, near water bodies can significantly reduce contamination risks.<sup>23</sup>

The Massachusetts Drinking Water Source Protection Grant Program provides funds for land acquisition to protect existing and planned future drinking water sources, as well as groundwater recharge.<sup>24</sup>

BMPs are practical, cost-effective solutions designed to reduce pollution and protect water sources. They are widely used in agriculture, urban development, and other sectors. Key BMPs include agricultural practices such as contour farming, cover cropping, and conservation tillage, which help reduce soil erosion and runoff, thereby minimising nutrient and pesticide transport into water bodies. Nutrient management plans ensure fertilisers are applied to minimise leaching and runoff.

Implementing green infrastructure in urban areas, such as vegetative swales, rain gardens, and permeable pavements, helps manage stormwater runoff and reduce pollutants entering water sources. The proper design and maintenance of stormwater systems are equally

---

21 Renata Buriti, 'Water Quality and Protection at Source' in Walter Leal Filho and others (eds), *Clean Water and Sanitation* (Encyclopedia of the UN Sustainable Development Goals, Springer 2020) 840, doi:10.1007/978-3-319-95846-0\_110; Teemu Viinikainen, 'Regulatory Measures in Water Legislation that can support Sustainable Soil Management' (2023) 13 *Soil Security* 100111, doi:10.1016/j.soisec.2023.100111.

22 Robert C Brears, 'Safeguarding Our Sources: Innovative Approaches to Water Source Protection' (*Mark and Focus*, 21 February 2024) <<https://medium.com/mark-and-focus/safeguarding-our-sources-innovative-approaches-to-water-source-protection-5b4b10330eb0>> accessed 3 October 2024.

23 Robert C Brears, *Nature-Based Solutions to 21st Century Challenges* (Routledge 2020); Robert C Brears, *Regional Water Security* (Wiley-Blackwell 2021).

24 Brears (n 22).

important. Sustainable forestry practices—such as selective logging, maintaining riparian buffers, and controlling road construction—are vital in reducing sedimentation and nutrient runoff into water bodies.<sup>25</sup>

The New York City Department of Environmental Conservation proposes a watershed protection programme providing an approach for controlling pollution from agricultural activities while supporting the agricultural economy of the watershed.<sup>26</sup>

Raising public awareness and educating communities about the importance of water source protection is essential for successful implementation. Public involvement leads to better compliance and stewardship. Educational campaigns inform the public about sources of water pollution and prevention steps. Schools, community groups, and media are effective platforms for disseminating this information. Engaging local communities in watershed management fosters ownership and responsibility, with community-based monitoring and clean-up initiatives delivering meaningful impacts. Additionally, training and workshops for farmers, urban planners, and industry stakeholders on BMPs and sustainable practices ensure these methods are understood and implemented effectively.<sup>27</sup>

The Philadelphia Water Department exemplifies an integrated, watershed-wide approach to protecting water bodies and drinking water quality in its programme.<sup>28</sup>

Technological advancements provide innovative solutions for protecting water sources by enhancing the ability to monitor, treat, and manage water resources efficiently. Real-time water quality monitoring systems enable continuous assessment of water parameters, allowing for the immediate detection of contamination and swift response. Advanced treatment technologies, such as membrane filtration, advanced oxidation processes, and biological treatment, effectively eliminate contaminants, ensuring that water meets quality standards. Furthermore, pollution control methods like biofilters, constructed wetlands, and sediment control devices help minimise the entry of pollutants into water bodies.<sup>29</sup>

---

25 Karen Solari, 'Forestry Best Management Practices in Watersheds: Web-based Training Module of the EPA's Watershed Academy Web' (*US Environmental Protection Agency (EPA)*, 2024) <<https://www.epa.gov/watershedacademy/online-training-watershed-management>> accessed 3 October 2024; Watershed Academy, 'Agricultural Management Practices for Water Quality Protection: Web-based Training Module EPA's Watershed Academy Web' (*US Environmental Protection Agency (EPA)*, 2024) <<https://www.epa.gov/watershedacademy/online-training-watershed-management>> accessed 3 October 2024.

26 Brears (n 22).

27 Brears (n 23).

28 Brears (n 22).

29 Robert C Brears, *Water Resources Management: Innovative and Green Solutions* (De Gruyter 2024) doi:10.1515/9783111028101.



### 3 LEGAL SUPPORT FOR THE RIGHT TO SAFE DRINKING WATER IN UKRAINE AND GLOBALLY

In July 2010, the UN General Assembly adopted a historic resolution recognising “the right to safe and clean drinking water and sanitation as a human right indispensable for the full enjoyment of life and all human rights.”<sup>30</sup> Subsequently, in September 2010, the Human Rights Council reaffirmed this recognition and explained that “this right is derived from the right to an adequate standard of living and is inextricably linked to the right to the enjoyment of the highest attainable standard of physical and mental health, as well as to the right to life and human dignity.”<sup>31</sup>

Since 2015, the General Assembly and the Human Rights Council have recognised “the right to safe drinking water and the right to sanitation as closely related but distinct human rights.”<sup>32</sup> Given their crucial importance to human life, water and sanitation cannot be viewed in isolation. Together, they are vital in reducing the global disease burden and enhancing health, education, and economic productivity.<sup>33</sup>

In December 2016, the UN General Assembly adopted a resolution designating 2018-2028 as the International Decade for Action “Water for Sustainable Development”. The resolution highlights that “water is critical for sustainable development and the eradication of poverty and hunger, that there is an inextricable link between water, energy, food security and nutrition, and that water is essential for human development and human health and well-being, and is vital for achieving the Sustainable Development Goals and other relevant social, environmental and economic goals.”<sup>34</sup>

Furthermore, the UN World Water Development Report 2019 affirms that “safe drinking water and sanitation are recognised as fundamental human rights, as they are essential for a healthy life and fundamental to the dignity of everyone.”<sup>35</sup>

Many national constitutions contain this principle by including provisions that link environmental protection to quality of life<sup>36</sup> and explicitly enshrine the right to water as a fundamental entitlement for all citizens of the state.<sup>37</sup>

---

30 UNGA Resolution 64/292 ‘The Human Right to Water and Sanitation’ (28 July 2010) <<https://digitallibrary.un.org/record/687002?ln=en>> accessed 3 October 2024.

31 UN Human Rights Council Resolution 15/9 (n 4) para 3.

32 UNGA Resolution 70/169 ‘The Human Rights to Safe Drinking Water and Sanitation’ (17 December 2015) <<https://digitallibrary.un.org/record/822012?ln=en>> accessed 3 October 2024.

33 Global Issues (n 1).

34 UNGA Resolution 71/222 ‘International Decade for Action, “Water for Sustainable Development”, 2018–2028’ (21 December 2016) <<https://digitallibrary.un.org/record/859143?ln=en>> accessed 3 October 2024.

35 Richard Connor, Stefan Uhlenbrook and Engin Koncagül, *Leaving no One Behind: The United Nations World Water Development Report 2019, Executive Summary* (UNESCO 2019) <<https://unesdoc.unesco.org/ark:/48223/pf0000367303>> accessed 3 October 2024.

36 Constitution of the Portuguese Republic of 2 April 1976 (7th Rev 2005) <<https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf>> accessed 3 October 2024.

37 Ustava Republike Slovenij (sprejeto 23 decembra 1991) <<https://pisrs.si/pregledPredpisa?id=USTA1>> dostopen 30 septembra 2024; Ustavni zakon Republike Slovenije št 001-02/15-4/173 dne 17 novembra 2016 ‘O dopolnitvi III poglavja Ustave Republike Slovenije (UZ70a)’ [2016] Uradni list Republike Slovenije 75/3208.



In Ukraine, environmental law should ensure human security in the natural environment, the protection of human environmental rights and interests, and the protection of the natural environment.<sup>38</sup> The state is committed to protecting citizens' health and lives from unfavourable environmental conditions. Among citizens' environmental rights, the right to an environment safe for life and health is of great importance, ensuring that citizens exercise the right to healthcare.<sup>39</sup>

The Constitution of Ukraine guarantees the right to an environment that is safe for life and health (Article 50), a provision further reinforced by environmental legislation (Article 9 of the Law of Ukraine "On Environmental Protection"). Additionally, Article 48 of the Constitution ensures the right of every individual to an adequate standard of living for themselves and their family, which includes sufficient food, clothing, and housing. Moreover, every individual is entitled to free access to information about the state of the environment, the quality of food products, and household goods, as well as the right to disseminate such information. This information cannot be classified under any circumstances (Article 50 of the Constitution of Ukraine).

However, the right to access drinking water is not explicitly recognised in the Constitution of Ukraine or other legislative acts. Considering this, we propose enshrining the right to safe drinking water as one of the fundamental human rights in the Constitution. Given that water resources and atmospheric air are vital for sustaining life and directly impacting human health and well-being, we recommend amending Article 48 of the Constitution to include the right to safe drinking water and clean air. The revised article would read as follows: "*Everyone has the right to an adequate standard of living for themselves and their family, including sufficient food, clothing, housing, safe drinking water and clean air.*"

The constitutional right to healthcare (Article 49 of the Constitution of Ukraine) cannot be fully realised without a fundamental prerequisite—the right to drinking water of adequate quality and sufficient quantity to meet personal and household needs. This right must be established at the legislative level. We propose enshrining such a provision in the Law of Ukraine "Fundamentals of Ukrainian Health Legislation" or incorporating it into the future Medical Code of Ukraine.

The human right to drinking water is proposed to be considered as: 1) *a condition for ensuring the human right to health and life* (Law of Ukraine "Fundamentals of the

---

38 Anatolii P Getman, 'Human Life and Health as an Object of Environmental Law in the Globalised World' (2020) 27(1) Journal of the National Academy of Legal Sciences of Ukraine 189, doi:10.37635/jnalsu.27(1).2020.189-200.

39 Vitalii M Pashkov and Maryna V Trotska, 'Natural Environment as Component of Public Health: Some Aspects of its Legal Regulation' (2019) 72(2) Wiadomości Lekarskie 261; Sokolova, Vilchuk and Cherkashyna (n 12).

Legislation of Ukraine on Health Care” (Arts. 6(b) and 26)<sup>40</sup> 2) *an integral element of the human right to a safe environment for health and life* (Art. 50 of the Constitution of Ukraine; Arts. 1 and 9 of the Law of Ukraine ‘On Environmental Protection’);<sup>41</sup> 3) *a separate environmental human right*, enshrined in the Constitution of Ukraine, the Fundamentals of Healthcare Legislation, and environmental laws, will help ensure access to safe drinking water and sanitation in Ukraine.

Ukraine’s environmental policy is designed to achieve key strategic objectives, including a safe state of the environment and water resources for human health. A safe state of water resources for human health is achieved, in particular, by:

- 1) predominantly ensuring compliance with sanitary and hygienic requirements for the quality of water used for drinking water supply by 2030 (‘The Law of Ukraine “On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030”’);<sup>42</sup>
- 2) improving water quality, completely phasing out the discharge of untreated and insufficiently treated wastewater into water bodies and ensuring that the degree of wastewater treatment meets established norms and standards, as well as preventing groundwater pollution, etc. (Decision of the National Security and Defence Council of Ukraine “On Challenges and Threats to the National Security of Ukraine in the Environmental Sphere and Priority Measures to Neutralise Them”, National Environmental Action Plan for the period up to 2025);<sup>43</sup>
- 3) complying with other environmental legislation in the field of water relations, in particular: The Water Code of Ukraine, the Law of Ukraine “On Water Disposal and Wastewater Treatment”, the Concept of Water Industry Development of Ukraine, the Decree of the President of Ukraine “On the Decision of the National Security and Defence Council of Ukraine” dated 30 July 2021 “On the State of Water Resources of Ukraine”, the Law of Ukraine “On the National Targeted Social Programme

---

40 Law of Ukraine no 2801-XII of 19 November 1992 ‘Fundamentals of the Legislation of Ukraine on Health Care’ [1992] Vidomosti of the Verkhovna Rada of Ukraine 4/19.

41 Constitution of Ukraine of 28 June 1996 (amended 1 January 2020) <<https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>> accessed 3 October 2024; Law of Ukraine no 1264-XII of 25 June 1991 ‘On Environmental Protection’ [1991] Vidomosti of the Verkhovna Rada of Ukraine 41/546.

42 Law of Ukraine no 2697-VIII of 28 February 2019 ‘On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030’ [2019] Official Gazette of Ukraine 28/980.

43 Decree of the President of Ukraine no 111/2021 of 23 March 2021 ‘On the decision of the National Security and Defense Council of Ukraine of 23 March 2021 “On Challenges and Threats to the National Security of Ukraine in the Environmental Sphere and Priority Measures to Neutralise Them”’ [2021] Official Gazette of Ukraine 26/1249; Order of the Cabinet of Ministers of Ukraine no 443-p of 21 April 2021 ‘On the approval of the National Environmental Action Plan for the period up to 2025’ [2021] Official Gazette of Ukraine 42/2557.

'Drinking Water of Ukraine' for 2022–2026", and the Water Strategy of Ukraine until 2050 and the operational plan for its implementation.<sup>44</sup>

To ensure the right to free access to information regarding drinking water quality, national reports on the quality of drinking water and the state of drinking water supply in Ukraine have been published.<sup>45</sup> Based on the Association Agreement between Ukraine and the European Union,<sup>46</sup> the provisions of the Directives regulating water relations have been introduced into national legislation.<sup>47</sup>

According to the Law of Ukraine, "On the Public Health System", everyone has the right to safe drinking water essential for health and life and the right to compensation for damages caused to their health due to violations of sanitary legislation.<sup>48</sup> Individuals have the right to receive accurate and timely information about their health status, as well as any existing or potential health risk factors and their severity (Art. 15). The law also establishes medical and sanitary requirements for the safety of water bodies and drinking water critical to human health and life (Pt. 1 of Art. 26). It specifies criteria for the safety of water bodies, including maximum permissible concentrations of chemical and biological substances, pathogenic and opportunistic microorganisms, and levels of

44 Water Code of Ukraine no 213/95-BP of 6 June 1995 [1995] Vidomosti of the Verkhovna Rada of Ukraine 24/189; Law of Ukraine no 2887-IX of 12 January 2023 'On Water Disposal and Wastewater Treatment' [2023] Official Gazette of Ukraine 19/1056; Resolution of the Verkhovna Rada of Ukraine no 1390-XIV of 14 January 2000 'On the Concept of Water Industry Development of Ukraine' [2000] Official Gazette of Ukraine 5/146; Decree of the President of Ukraine no 357/2021 of 13 August 2021 'On the Decision of the National Security and Defence Council of Ukraine' dated 30 July 2021 'On the State of Water Resources of Ukraine' [2021] Official Gazette of Ukraine 66/4155; Law of Ukraine no 2045-IX 'On the National Targeted Social Programme "Drinking Water of Ukraine" for 2022–2026' (15 February 2022) <<https://itd.rada.gov.ua/billinfo/Bills/pubFile/1233914>> accessed 3 October 2024; Order of the Cabinet of Ministers of Ukraine no 1134-p of 9 December 2022 'On the approval of the Water Strategy of Ukraine until 2050 and the operational plan for its implementation' [2022] Official Gazette of Ukraine 99/6244.

45 Resolution of the Cabinet of Ministers of Ukraine no 576 of 29 April 2004 'On the Approval of the Procedure for Preparing and Publicizing the National Report on the Quality of Drinking Water and the Status of Drinking Water Supply in Ukraine' [2004] Official Gazette of Ukraine 18/1286; Ministry of Development of Communities and Territories of Ukraine, *National Report on the Quality of Drinking Water and the State of Drinking Water Supply in Ukraine in 2020* (Mininfrastruktury 2021); Ministry of Development of Communities and Territories of Ukraine, *National Report on the Quality of Drinking Water and the State of Drinking Water Supply in Ukraine in 2021* (Mininfrastruktury 2022).

46 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (signature 27 June 2014) [2014] OJ L 161/3.

47 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 'Establishing a Framework for Community Action in the Field of Water Policy' [2000] OJ L 327/1; Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 'On the Protection of Groundwater against Pollution and Deterioration' [2006] OJ L 372/19.

48 Law of Ukraine no 2573-IX of 6 September 2022 'On the Public Health System' [2022] Official Gazette of Ukraine 80/4809.

radiation background, all determined by sanitary legislation and state medical and sanitary rules and regulations (Pt. 2 of Art. 26).

The Law of Ukraine “On Drinking Water and Drinking Water Supply”<sup>49</sup> enshrines the right to provide consumers with drinking water, the quality of which meets state sanitary norms and rules, the quantity and mode of supply of which are determined on a contractual basis in an amount not less than the drinking water supply standards (Art. 22). However, legal scholars have determined that individuals who utilise water for personal and household needs—specifically, by extracting water from natural sources without the use of structures or technical devices, such as wells (Art. 47 of the Water Code of Ukraine)—are not classified as drinking water consumers under the Law of Ukraine “On Drinking Water and Drinking Water Supply”. Unfortunately, the right to drinking water for these users is not recognised in Ukraine’s environmental legislation, leading to challenges in protecting this right in court.<sup>50</sup>

It should be noted that the Law of Ukraine “On Drinking Water and Drinking Water Supply” defines the drinking water supply system as a set of technical means, including networks, facilities and equipment (devices) used for centralised and non-centralised drinking water supply (Art. 1). It also establishes the rights of consumers of drinking water and water supply services to access water that meets state sanitary standards and regulations with the quantity and supply schedule determined on a contractual basis ensuring volumes not less than the normative standards for drinking water supply (Art. 22). The Law defines non-centralised drinking water supply as the provision of drinking water to individual consumers from drinking water supply sources using water distribution points (including mobile points), water treatment installations (devices), or the delivery of packaged drinking water (Art. 1). At the same time, the Water Code of Ukraine specifies in Article 60 that when water is used for drinking and domestic purposes through non-centralised supply systems, legal and natural persons may draw water directly from surface or underground water bodies under the terms of general or special water use.

Thus, based on the mentioned legislative provisions, it can be concluded that individuals engaging in general water use to meet their needs, like drawing water from water bodies without the use of structures or technical devices, as well as from wells (Art. 47 of the Water Code of Ukraine) are not considered consumers of drinking water. Consequently, the right to drinking water for such users is, unfortunately, not recognised in environmental legislation. Therefore, the Water Code of Ukraine requires certain amendments to explicitly establish citizens’ rights to drinking water of adequate quality

---

49 Law of Ukraine no 2918-III of 10 January 2002 ‘On Drinking Water and Drinking Water Supply’ [2002] Official Gazette of Ukraine 6/223.

50 Maryna K Cherkashyna, ‘The Human Right to Drinking Water in Ukraine: Some Issues Legal Regulation’ (2024) 2(84) Uzhhorod National University Herald: Series Law 263, doi:10.24144/2307-3322.2024.84.2.36.

and sufficient quantity to meet personal and domestic needs. This should include provisions for general water use, such as drawing water from water bodies without the use of structures or technical devices, as well as from wells.

## 4 DRINKING WATER QUALITY AT THE INTERNATIONAL LEVEL AND IN UKRAINE: LEGAL SUPPORT AND RELATIONSHIP WITH HUMAN HEALTH AND LIFE

The main international documents (recommendations or requirements) that are widely accepted as foundational in shaping national regulations on drinking water quality in most countries are as follows: the World Health Organization's recommendations on drinking water quality;<sup>51</sup> Directive 2020/2184 of the European Parliament and the Council of the European Union, dated 16 December 2020 regarding the quality of water intended for human consumption (new version effective from January 2021);<sup>52</sup> the Water Framework Directive 2000/60/EC, which establishes, inter alia, the obligation of Member States "to provide the necessary protection for designated water bodies in order to prevent deterioration of their quality to reduce the level of treatment required for the production of drinking water";<sup>53</sup> Directive 91/271/EEC on the treatment of urban wastewater;<sup>54</sup> and Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater from pollution and depletion stipulates that "groundwater is a valuable natural resource, the most sensitive and largest source of clean water in the European Union, and the main source of drinking water in many regions."<sup>55</sup>

In Ukraine, the legal framework supporting the quality of drinking water is based on the following regulations: State Sanitary Norms and Rules (DSanPiN 2.2.4-171-10) outlining hygienic requirements for drinking water intended for human consumption;<sup>56</sup> State Standards of Ukraine - DSTU 4808:2007, which sets hygienic and environmental requirements for water quality and rules of selection for sources of centralised drinking

---

51 World Health Organization, *Guidelines for Drinking-Water Quality: Fourth Edition Incorporating the First and Second Addenda* (WHO 2022); World Health Organization, *Guidelines for Drinking-Water Quality: Small Water Supplies* (WHO 2023).

52 Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 'On the Quality of Water Intended for Human Consumption (Recast) (Text with EEA relevance) [2020] OJ L 435/1.

53 Directive 2000/60/EC (n 47) art 7, para 3.

54 Council Directive 91/271/EEC of 21 May 1991 Concerning Urban Waste-Water Treatment (consolidated version 1 January 2014) <<http://data.europa.eu/eli/dir/1991/271/oj>> accessed 3 October 2024.

55 Directive 2006/118/EC (n 47) cl (3).

56 Order of the Ministry of Health of Ukraine no 400 of 12 May 2010 'On approval of State Sanitary Norms and Rules (DSanPiN 2.2.4-171-10) "Hygienic Requirements for Drinking Water Intended for Human Consumption"' [2010] Official Gazette of Ukraine 51/1717.

water supply, dated 5 July 2007 (No. 144);<sup>57</sup> DSTU 7525:2014, which establishes requirements and methods of quality control, dated 23 October 2014 (No.1257);<sup>58</sup> the Order of the Ministry of Health of Ukraine No. 683, dated 22 April 2022, “On approval of the State Sanitary Norms and Rules ‘Safety Indicators and Certain Indicators of Drinking Water Quality in Martial Law and Other Emergency Situations’”<sup>59</sup>

Drinking water quality regulation systems vary across countries due to differences in water supply conditions and national peculiarities of natural and socio-economic factors in each region. It is essential to analyse these systems to tailor general approaches to local and regional conditions, particularly in Ukraine.<sup>60</sup>

Environmental law plays an important role in regulating health care as a natural right of citizens, despite the fact that it is regulated by practically all branches of the national law of Ukraine. Criteria for a safe environment are determined by environmental standards and norms as well as technical, sanitary, hygienic, construction, and other norms and rules containing requirements for environmental protection.<sup>61</sup>

Regulation in the fields of water use, protection, and reproduction plays a critical role in ensuring the environmental and sanitary-hygienic safety of water by establishing requirements for objects subject to regulation. Water legislation establishes the relevant standards (Arts. 33 and 35 of the Water Code of Ukraine).

Scientific literature underscores the necessity of enhancing the regulatory framework for water use and water protection policy in the country. Water protection practices of other countries demonstrate the effectiveness of combining maximum permissible concentrations with environmental classifications of natural resources, technological restrictions, economic standards, and other measures. The realism and flexibility of regulatory systems abroad also contribute to the significant effectiveness of water protection initiatives.<sup>62</sup>

---

57 DSTU 4808:2007, ‘Sources of Centralised Drinking Water Supply: Hygienic and Environmental Requirements for Water Quality and Rules of Selection’ (Derzhspozhyvstandart of Ukraine 2007).

58 DSTU 7525:2014, ‘Drinking Water: Requirements and Methods of Quality Control’ (Minekonomrozvytku of Ukraine 2014).

59 Order of the Ministry of Health of Ukraine no 683 of 22 April 2022 ‘On approval of the State Sanitary Norms and Rules “Safety Indicators and Certain Indicators of Drinking Water Quality in Martial Law and Other Emergency Situations”’ [2022] Official Gazette of Ukraine 44/2423.

60 VM Prybylova, ‘Problems and Ways to Improve the Standardization of Drinking Water Quality Indicators’ (2015) 41 *The Journal of VN Karazin Kharkiv National University, Series Geology, Geograph, Ecology* 57.

61 NR Malysheva and MI Yerofeiev, *Scientific and Practical Commentary on the Law of Ukraine “On Environmental Protection”* (Pravo 2017) 55.

62 VK Khilchevskiy (ed), *Fundamental Principles of Water Resource Quality Management and Protection: Educational Guide* (Kyiv University 2015).

## 5 JUDICIAL PRACTICE IN DISPUTES ON ENSURING THE RIGHT TO SAFE DRINKING WATER ACCESS IN UKRAINE AND THE EU

It is crucial for the judicial system to operate effectively to uphold the rule of law and provide sufficient protection for the environmental rights of citizens.

Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, stated by the Council of Europe, proclaims the right to a fair trial. According to this article, “everyone has the right to a fair and public hearing of their case within a reasonable time by an independent and impartial tribunal established by law, which will resolve disputes regarding their rights and obligations.”<sup>63</sup> This is why an effective judiciary is so important for protecting environmental rights.<sup>64</sup>

In Ukraine, judicial practice has a mandatory status at the legislative level and has become a source of law. According to Article 17 of the Law of Ukraine, “On the Execution of Decisions and the Application of the Practice of the European Court of Human Rights”, dated 23 February 2006, it is explicitly stated that “courts use the case law of the European Court of Human Rights (ECtHR) as a source of law when considering cases”.

ECtHR has considered several cases against Ukraine related to environmental protection. Although there are not many such decisions, they hold significant value. Such cases include *Dubetska and others v. Ukraine* (App. No. 30499/03), *Dzemiuk v. Ukraine* (App. No. 42488/02), *Kononov and others v. Ukraine* (App. Nos. 39108/18 and 3 others), *Petruk and others v. Ukraine* (App. Nos. 1343/19 and 5 others),<sup>65</sup> etc. Despite the fact that all ECtHR decisions (including those involving other states) serve as sources of law in Ukraine, the rulings concerning Ukraine are particularly valuable because the ECtHR analyses Ukrainian legislation and its application, highlighting specific shortcomings. Consequently, applying the ECtHR's decisions in cases against Ukraine to similar or analogous cases within Ukraine becomes easier. This is crucial for ensuring that environmental rights and protections are adequately enforced.<sup>66</sup>

63 OV Petryshyn (ed), *General Theory of Law: Textbook* (Pravo 2020) 511.

64 Law of Ukraine no 3477-IV of 23 February 2006 ‘On the Execution of Judgments and the Application of the Practice of the European Court of Human Rights’ [2006] Official Gazette of Ukraine 12/792.

65 *Dubetska and others v Ukraine* App no 30499/03 (ECtHR, 10 February 2011) <<https://hudoc.echr.coe.int/fre?i=001-103273>> accessed 3 October 2024; *Dzemiuk v Ukraine* App no 42488/02 (ECtHR, 4 September 2014) <<https://hudoc.echr.coe.int/fre?i=001-146357>> accessed 3 October 2024; *Kononov and others v Ukraine* App nos 39108/18 and 3 other (ECtHR, 10 February 2022) <<https://laweuro.com/?p=18034>> accessed 3 October 2024; *Petruk and others v Ukraine* App nos 1343/19 and 5 others (ECtHR, 14 November 2019) <<https://hudoc.echr.coe.int/eng?i=001-198469>> accessed 3 October 2024.

66 OV Kravchenko (ed), *Human Rights and Environmental Protection: Educational and Methodological Manual for Trainers (Judges-Teachers)* (Manuskrypt 2016) 68-70.



Considering the case of *Dzemiuk v. Ukraine* (App. No. 42488/02), the applicant alleged a violation of Article 8 of the European Convention on Human Rights. Specifically, he argued that establishing a cemetery near his home led to the contamination of sources supplying drinking water and water used for private gardening. This, as he claimed, interfered with his ability to enjoy his home and property, particularly the soil of his land plot, in the usual manner and negatively impacted the physical and psychological health of himself and his family (para. 73).

A similarly illustrative case is *Dubetska and others v. Ukraine* (App. No. 30499/03), in which the applicants complained that the state authorities had failed to protect their homes and private and family lives from excessive pollution caused by two state-owned industrial enterprises. They referred to Article 8 of the Convention, arguing that they constantly suffered from a lack of drinking water due to pollution, as they did not have access to the centralised water supply. They relied on water from a local well and stream for washing clothes and cooking, but this water caused itching and intestinal infections. The applicants claimed they were forced to organise the delivery of drinking water to their homes at their own expense, using a truck and a tractor. However, the water was not supplied sufficiently, and its delivery was not always regular. Some applicants developed chronic illnesses attributed to the factory's activities, and environmental factors also strained family relationships, including difficulties in marital relations caused by the lack of clean water for washing. The Court unanimously found a violation of Article 8 of the Convention in this case.

Experts in legal theory identify the main directions of judicial practice influence. These influences include eliminating inconsistencies where the same categories of cases are treated differently by the courts. They also specify provisions in normative acts when their abstract nature permits multiple regulatory options. Judicial practice forms a uniform understanding of legal prescriptions that are vaguely formulated or outdated and do not align with current societal values, thus requiring dynamic interpretation. Moreover, it establishes consistent rules of conduct in similar factual situations, ensuring uniform judicial practices. Judicial practice fills gaps in legal regulation while also offering behavioural models for situations where the legislator has intentionally left room for autonomous legal regulation. Due to the recurrence of disputes arising from these situations, there is a pressing need to develop established behavioural models.<sup>67</sup>

Scientists reasonably emphasise that in Ukraine, the status of judicial practice as a mandatory source includes the conclusions presented in specific ECtHR cases, decisions by the Supreme Court regarding various applications of substantive and procedural law, as well as rulings by the Constitutional Court of Ukraine on official interpretations.<sup>68</sup> An analysis of the judicial practice of the Commercial Cassation Court in disputes arising

---

67 Petryshyn (n 63) 125.

68 *ibid* 129.

from issues of preservation, use and protection of water resources demonstrates that individuals whose rights are being violated—either directly or indirectly—practically do not appeal to the relevant authorities. As a result, the rights of citizens that have been violated cannot be restored.<sup>69</sup>

In Ukraine, the violated rights of citizens in the field of environmental protection must be restored, and their protection is carried out in court in accordance with the legislation of Ukraine (Art. 11 of the Law of Ukraine “On Environmental Protection”).<sup>70</sup>

The state guarantees consumer rights protection in the area of drinking water and supply by ensuring everyone has access to drinking water of standard quality based on scientifically established supply standards tailored to regional and living conditions (Arts. 1, 4, 7 of the Law of Ukraine “On Drinking Water and Drinking Water Supply”).<sup>71</sup> The Law also grants the right to file lawsuits for compensation for damages resulting from the provision of substandard drinking water that fails to meet state sanitary standards, as well as for other legal violations in this sector (Art. 22).<sup>72</sup> Consequently, cases involving various legal personalities may be adjudicated in administrative, civil, commercial, or criminal proceedings.

When studying judicial practice in the context of environmental rights, it is important to focus on existing court cases related to decisions that resulted in violations of citizens' rights to engage in general water use<sup>73</sup> or the removal of obstacles to such use.<sup>74</sup>

Today, courts play a significant role in enforcing environmental legislation and safeguarding ecological rights and interests, particularly for individuals. Judicial practices regarding specific case categories are reflected in the resolutions of the Plenary Session of the Supreme Court of Ukraine. A well-functioning judicial system is a vital component of a society governed by the rule of law and a prerequisite for democracy.<sup>75</sup>

---

69 Case no 815/875/16 (Administrative Cassation Court of the Supreme Court of Ukraine, 23 July 2019) <<http://reyestr.court.gov.ua/Review/83243861>> accessed 3 October 2024; Case no 908/581/19 (Commercial Cassation Court of the Supreme Court of Ukraine, 25 February 2020) <<http://reyestr.court.gov.ua/Review/87838416>> accessed 3 October 2024; Case no 920/739/19 (5021/2509/2011) (Commercial Cassation Court of the Supreme Court of Ukraine, 11 August 2021) <<https://reyestr.court.gov.ua/Review/99123175>> accessed 3 October 2024; Case no 904/4941/20 (Commercial Cassation Court of the Supreme Court of Ukraine, 09 September 2021) <<https://reyestr.court.gov.ua/Review/99818456>> accessed 3 October 2024.

70 Law of Ukraine no 1264-XII (n 41).

71 Law of Ukraine no 2918-III (n 49).

72 *ibid*, art 22.

73 Case no 310/4071/16-a (Berdyansk City District Court of Zaporizhzhya Region, 11 October 2016) <<https://reyestr.court.gov.ua/Review/62770733>> accessed 3 October 2024.

74 Case no 160/5771/20 (Dnipropetrovsk District Administrative Court, 19 February 2021) <<https://reyestr.court.gov.ua/Review/95271667>> accessed 3 October 2024.

75 Petryshyn (n 63) 124.

## 6 CONCLUSIONS

The analysis of scientific studies, international documents, and national legislation reveals that recognising the right to clean water as a fundamental human right is crucial for addressing the provision of this essential resource to the population. Establishing legal support for the right to drinking water at the national level—specifically, by enshrining it in the Constitution of Ukraine, the Fundamentals of Healthcare Legislation, and the Water Code of Ukraine—will facilitate access to safe drinking water and sanitation. This aligns with one of the strategic goals outlined in Ukraine's Water Strategy until 2050. Without equitable access to safe drinking water, upholding other human rights, such as the right to an adequate standard of living and the right to health and well-being, becomes impossible, as do civil and political rights. The state must prioritise drinking water use across all water utilisation forms and maintain adequate reserves of safe drinking water to ensure healthy living conditions.

Given that the Law of Ukraine “On Environmental Protection” defines the legal, economic, and social framework for organising environmental protection in the interests of both present and future generations, it emphasises that “protecting the environment, rationally utilising natural resources and ensuring the environmental safety of human life are essential conditions for the sustainable economic and social development of Ukraine (preamble)”. Regarding the relevance of the issue under study, namely the human right to drinking water, it would be advisable to introduce appropriate amendments, proposing a revision of Art. 9 “Environmental Rights of Citizens” to include the formulation of this right.

Taking the above into account, we propose the following:

- 1) Amend Article 48 of the Constitution of Ukraine by revising it as follows: “Everyone has the right to an adequate standard of living for themselves and their family, including sufficient food, clothing, housing, safe drinking water and clean air.”
- 2) Strengthen the constitutional right to healthcare (Article 49 of the Constitution of Ukraine) by recognising that it cannot be fully realised without one of its most essential components—the right to drinking water of adequate quality and sufficient quantity to meet personal and domestic needs. Relevant legal provisions should be added to the Law of Ukraine “Fundamentals of Ukrainian Health Legislation” or the future Medical Code of Ukraine.
- 3) Amend the Water Code of Ukraine to include the right of citizens to drinking water of normative quality and sufficient quantity for personal and domestic needs, even in cases of general water use—specifically, when drawing water from water bodies without the use of structures or technical devices, as well as from wells.

The application of the European Court of Human Rights (ECtHR) case law regarding environmental norm violations is critical for judicial practice in Ukraine. It expands the means of protecting citizens' rights under the Convention for the Protection of Human Rights and Fundamental Freedoms, addressing existing gaps in environmental law.

Crucially, non-compliance with drinking water quality standards undermines the ability to use water without risking harm to health and lives. Given the unsatisfactory state of drinking water quality and quantity in Ukraine, one would expect a rise in citizens' appeals to the courts. However, the actual number of judicial cases remains relatively low.

Therefore, it is essential to emphasise that judicial practice serves as a mandatory source of law in our country. This includes conclusions presented in specific ECtHR cases, decisions by the Supreme Court regarding the application of various norms of substantive and procedural law, and rulings by the Constitutional Court on official interpretations. In light of this role of judicial practice, it would be appropriate to undertake several initiatives: the preparation and publication of collections and reference materials regarding judicial practice and the establishment and operation of electronic search systems for judicial practice specifically related to the categories of cases examined in this work.

The issues raised are critical, particularly as they pertain to realising the essential ecological right to quality drinking water, which is vital for health and human life. Ensuring access to safe drinking water is fundamental to public health and well-being and remains a pressing concern in many countries, including Ukraine.

The significance of human rights is rooted in their effective implementation. By incorporating the right to drinking water into Ukrainian legislation, national courts would be empowered to directly enforce this norm, thereby strengthening the overall protection system.

## REFERENCES

1. Ahmad N, 'Human Right to Water under International Law Regime: An Overview' (2020) 46(3) Commonwealth Law Bulletin 415, doi:10.1080/03050718.2020.1770618.
2. Braijie M, 'Water as an Object of International Legal Protection in the Case of Armed Conflict' (2017) 97(8) *Man in India* 217.
3. Brears RC, *Nature-Based Solutions to 21st Century Challenges* (Routledge 2020).
4. Brears RC, *Regional Water Security* (Wiley-Blackwell 2021).
5. Brears RC, 'Safeguarding Our Sources: Innovative Approaches to Water Source Protection' (*Mark and Focus*, 21 February 2024) <<https://medium.com/mark-and-focus/safeguarding-our-sources-innovative-approaches-to-water-source-protection-5b4b10330eb0>> accessed 3 October 2024.
6. Brears RC, *Water Resources Management: Innovative and Green Solutions* (De Gruyter 2024) doi:10.1515/9783111028101.
7. Buriti R, 'Water Quality and Protection at Source' in Filho WL and others (eds), *Clean Water and Sanitation* (Encyclopedia of the UN Sustainable Development Goals, Springer 2020) 840, doi:10.1007/978-3-319-95846-0\_110.

8. Cherkashyna MK, 'The Human Right to Drinking Water in Ukraine: Some Issues Legal Regulation' (2024) 2(84) *Uzhhorod National University Herald: Series Law* 263, doi:10.24144/2307-3322.2024.84.2.36.
9. Cherkashyna M, 'Transboundary Aquifers: Legal Problems of Ukraine and other Countries of the World' in Jaremko O and others (eds), *Actual Researches of Legal and Historical Science: International Scientific Internet Conference, Ternopil, Ukraine - Perevorsk, Poland, 8-9 February 2023* (FOP Shpak VB 2023) vol 47, 91.
10. Cherkashyna M, Sokolova A and Yakovlev V, 'Legal Problems of Ensuring the Quality of Underground Drinking Water in Ukraine' (2024) 1 *Theory and Practice of Jurisprudence* 74, doi:10.21564/2225-6555.2024.1(25).300682.
11. Connor R, Uhlenbrook S and Koncagül E, *Leaving no One Behind: The United Nations World Water Development Report 2019, Executive Summary* (UNESCO 2019).
12. Garner EL, 'Adapting Water Laws to Increasing Demand and a Changing Climate' (2016) 41(6) *Water International* 883, doi:10.1080/02508060.2016.1214775.
13. Getman AP, 'Human Life and Health as an Object of Environmental Law in the Globalised World' (2020) 27(1) *Journal of the National Academy of Legal Sciences of Ukraine* 189, doi:10.37635/jnalsu.27(1).2020.189-200.
14. Grönwall J and Danert K, 'Regarding Groundwater and Drinking Water Access through A Human Rights Lens: Self-Supply as A Norm' (2020) 12(2) *Water* 419, doi:10.3390/w12020419.
15. Hansén N, 'The Human Right to Water and its Status in International Law' (Independent thesis, Faculty of Law Stockholm University 2018).
16. Ibrahim IA, *International Water Law and the Human Right to Water: The Case of Transboundary Aquifers* (Routledge 2024) doi:10.4324/9781003537724.
17. Iefremova I, Lomakina I and Obiiukh N, 'Groundwater Protection as an Essential Component of Water Management in the European Union in the Light of Modern Integration Processes: Legal Aspects of the Problem' (2019) 8(3) *European Journal of Sustainable Development* 354, doi: 10.14207/ejsd.2019.v8n3p354.
18. Imawan R, 'The Right to Water: A Comparative Study of Law in Indonesia and South Africa' (2023) 6(2) *Jambe Law Journal* 103, doi:10.22437/jlj.6.2.103-124.
19. Jatcenko SS, 'Meaningful Fulfillment of the Right to Drinking Water' (2014) 3 *Forum Prava* 456 <[http://nbuv.gov.ua/UJRN/FP\\_index.htm\\_2014\\_3\\_77](http://nbuv.gov.ua/UJRN/FP_index.htm_2014_3_77)> accessed 3 October 2024.
20. Khilchevskiy VK (ed), *Fundamental Principles of Water Resource Quality Management and Protection: Educational Guide* (Kyiv University 2015).
21. Kravchenko OV (ed), *Human Rights and Environmental Protection: Educational and Methodological Manual for Trainers (Judges-Teachers)* (Manuskrypt 2016).

22. Kulko AV, *International Legal Regulation of the Use and Protection of Transboundary Freshwaters* (Stilos 2018).
23. Malysheva NR and Yerofeiev MI, *Scientific and Practical Commentary on the Law of Ukraine "On Environmental Protection"* (Pravo 2017).
24. Obijuh NM, 'Ensuring the Right to Drinking Water in International Legal Doctrine' (2022) 8 Juridical Scientific and Electronic Journal 571, doi:10.32782/2524-0374/2022-8/130.
25. Obijuh NM, 'Legal Support for the Use of Sources of Drinking Water Supply in Ukraine' (PhD thesis, National University of Life and Environmental Sciences of Ukraine 2015).
26. Obijuh NM, 'Peculiarities of Legal Regulation of Relations in the Sphere of Use of Sources of Drinking Water Supply in Ukraine' (2014) 3 Bulletin of the Ministry of Justice of Ukraine 135.
27. Obijuh NM, 'The Human Right to Drinking Water: Development Trends and Guarantees of Implementation' (2013) 26(2-2) Scientific notes of Taurida National VI Vernadsky University, Series: Juridical Sciences 174.
28. Özerol G and Schillinger J, 'Water Management and Armed Conflict' in *Elgar Encyclopedia of Water Policy, Economics and Management* (Edward Elgar Publ 2024) 340.
29. Pashkov VM and Trotska MV, 'Natural Environment as Component of Public Health: Some Aspects of its Legal Regulation' (2019) 72(2) Wiadomości Lekarskie 261.
30. Petryshyn OV (ed), *General Theory of Law: Textbook* (Pravo 2020).
31. Prybylova VM, 'Problems and Ways to Improve the Standardization of Drinking Water Quality Indicators' (2015) 41(1128) The Journal of VN Karazin Kharkiv National University, Series Geology, Geograph, Ecology 57.
32. Sancin V and Juhart M, 'The Right to Safe Drinking Water in International Law and in Slovenia's Legal Framework and Implementation' (2023) 18(34) Journal of Agricultural and Environmental Law 106, doi:10.21029/JAEL.2023.34.106.
33. Schillinger J and others, 'Water in War: Understanding the Impacts of Armed Conflict on Water Resources and their Management' (2020) 7(6) WIREs Water e1480, doi:10.1002/wat2.1480.
34. Serdjuk OV, 'Groundwater in the System of Objects of Water Legal Relations' (2012) 1034 The Journal of VN Karazin Kharkiv National University, Series Law 369.
35. Serdjuk OV, 'Legal Principles of Groundwater Use' (PhD thesis, Yaroslav Mudryi National Law University 2014).
36. Sokolova AK and Cherkashyna MK, 'Legal Aspects of Using Natural Resources for Health and Recreational Purposes to Ensure Human Right to Health Care' (2021) 74(11-2) Wiadomości Lekarskie 3077, doi:10.36740/WLek202111237.
37. Sokolova AK, Vilchuk TB and Cherkashyna MK, 'Ensuring the Environmental Rights as a Prerequisite for the Rights to Health in Ukraine and the European Union' (2019) 72(12-2) Wiadomości Lekarskie 2489, doi:10.36740/WLek201912216.

38. Solari K, 'Forestry Best Management Practices in Watersheds: Web-based Training Module of the EPA's Watershed Academy' (*US Environmental Protection Agency (EPA)*, 2024) <<https://www.epa.gov/watershedacademy/online-training-watershed-management>> accessed 3 October 2024.
39. Trotska M, Cherkashyna M and Sokolova A, 'Implementation and Protection of the Right to General Water Use in Ukraine: Main Theoretical Problems and Certain Aspects of Judicial Dispute Resolution' (2023) 6(1) *Access to Justice in Eastern Europe* 84, doi:10.33327/AJEE-18-6.1-a000103.
40. Uberman V and Vaskovets L, 'Step-by-step Approximation of the Ukrainian Ecological and Legal Institute of Water Quality and its Regulation to the Legislation of the European Union' in Blumenthal J von and others (eds), *Legislation of EU Countries: History, Shortcomings and Prospects for the Development* (Baltija Publ 2019) 334.
41. Uberman V and Vaskovets L, 'The Concept of "Pollution" in Water Legislation of Ukraine and the EU and the Requirements of Post-War Environmental Security' (2023) 2 *Law, State, Technology* 16, doi:10.32782/LST/2023-2-3.
42. Viinikainen T, 'Regulatory Measures in Water Legislation that Can Support Sustainable Soil Management' (2023) 13 *Soil Security* 100111, doi:10.1016/j.soisec.2023.100111.
43. Yanishevskaya KD and Skoryk AD, 'The Right to Drinking Water as an Axiom in Human Rights' (2018) 10 *Young Scientist* 699.
44. Yermolenko V and others, 'Quality of Drinking Water in Rural Areas: Problems of Legal Environment' (2021) 280 *E3S Web of Conferences* 0902, doi:10.1051/e3sconf/202128009022.
45. Yevstigneyev AS, 'Legal Regulation of Drinkable Water Supply Priority in Ukraine' (2011) 1 *Forum Prava* 335 <[http://nbuv.gov.ua/UJRN/FP\\_index.htm\\_2011\\_1\\_56](http://nbuv.gov.ua/UJRN/FP_index.htm_2011_1_56)> accessed 3 October 2024.
46. Zeleňáková M, Kubiak-Wójcicka K and Negm AM (eds), *Quality of Water Resources in Poland* (Springer Cham 2021) doi:10.1007/978-3-030-64892-3.

## AUTHORS INFORMATION

### Maryna Cherkashyna\*

Cand. of Legal Science (PhD in Law), Assoc. Prof., Department of Environmental Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine

[m.k.cherkashyna@nlu.edu.ua](mailto:m.k.cherkashyna@nlu.edu.ua)

<https://orcid.org/0000-0002-8892-5440>

**Corresponding author**, responsible for project administration, research methodology, investigation, data curation, writing-original draft, approval of the final version.



**Alla Sokolova**

Dr.Sc. (Law), Assoc. Prof., Department of Environmental Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine

[a.k.sokolova@nlu.edu.ua](mailto:a.k.sokolova@nlu.edu.ua)

<https://orcid.org/0000-0002-1840-6290>

**Co-author**, responsible for research methodology, investigation, data curation, writing-original draft.

**Robert C. Brears**

Founder, Our Future Water, Christchurch, New Zealand

[rbc.chc@hotmail.com](mailto:rbc.chc@hotmail.com)

<https://orcid.org/0000-0002-8489-451X>

**Co-author**, responsible for data curation, investigation, writing-original draft.

**Competing interests:** No competing interests were disclosed.

**Disclaimer:** The authors declare that their opinion and views expressed in this manuscript are free of any impact of any organizations.

## ABOUT THIS ARTICLE

**Cite this article**

Cherkashyna M, Sokolova A and Brears RC, 'The Right to Safe Drinking Water as a Condition for Ensuring Human Health and Life: Legal Regulation and Judicial Protection in Ukraine and Other Countries' (2025) 8(1) Access to Justice in Eastern Europe 193-217 <<https://doi.org/10.33327/AJEE-18-8.1-a000111>>

**DOI** <https://doi.org/10.33327/AJEE-18-8.1-a000111>

**Managing editor** – Mag. Yuliia Hartman. **English Editor** – Julie Bold.

**Summary:** 1. Introduction. – 2. International legal source water protection. – 3. Legal support for the right to safe drinking water in Ukraine and globally. – 4. Drinking water quality at the international level and in Ukraine: legal support and relationship with human health and life. – 5. Judicial practice in disputes on ensuring the right to safe drinking water access in Ukraine and the EU. – 6. Conclusions.

**Keywords:** *natural resources, water resources, drinking water, environmental rights, right to safe drinking water access, healthcare and judicial defence.*

## DETAILS FOR PUBLICATION

Date of submission: 08 Oct 2024

Date of acceptance: 16 Dec 2024

Date of publication: 15 Feb 2025

Whether the manuscript was fast tracked? - No

Number of reviewer report submitted in first round: 2 reports

Number of revision rounds: 1 round, revised version submitted 11 Dec 2024

### Technical tools were used in the editorial process:

Plagiarism checks - Turnitin from iThenticate <https://www.turnitin.com/products/ithenticate/>

Scholastica for Peer Review <https://scholasticahq.com/law-reviews>

## RIGHTS AND PERMISSIONS

**Copyright:** © 2025 Maryna Cherkashyna, Alla Sokolova and Robert C. Brears. This is an open access article distributed under the terms of the Creative Commons Attribution License, (CC BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

**ПРАВО НА БЕЗПЕЧНУ ПИТНУ ВОДУ**

**ЯК УМОВА ЗАБЕЗПЕЧЕННЯ ЗДОРОВ'Я ТА ЖИТТЯ ЛЮДИНИ:**

**ПРАВОВЕ РЕГУЛЮВАННЯ ТА СУДОВИЙ ЗАХИСТ В УКРАЇНІ ТА ІНШИХ КРАЇНАХ**

**Марина Черкашина\*, Алла Соколова та Роберт С. Брірс**

АНОТАЦІЯ

**Вступ.** Глобальна нестача безпечної питної води в поєднанні з нагальними проблемами щодо охорони та сталого управління цим життєво важливим природним ресурсом підкреслює необхідність забезпечити право людини на доступ до чистої води. У цій статті досліджується правова охорона водних ресурсів та аналізується нормативно-правова база, що гарантує право на безпечну питну воду як критично важливу умову для здоров'я та виживання, як в Україні, так і в усьому світі. Також було визначено

проблеми судового захисту цього права на національному та глобальному рівнях. З огляду на досвід Європейського Союзу, у статті пропонується внести положення, які підкреслюють важливу роль водних ресурсів та їх прямиий вплив на здоров'я та добробут людей. У зв'язку з цим автори рекомендують удосконалити Конституцію України за допомогою внесення змін і доповнень до законодавства у сфері охорони навколишнього середовища та охорони здоров'я.

**Методи.** У цьому дослідженні використовується мультидисциплінарна методологія, яка поєднує загальні філософські, наукові, спеціалізовані та юридичні підходи для ретельного вивчення правових меж, що регулюють право людини на безпечну питну воду. Це має вирішальне значення для захисту здоров'я та життя людей в Україні та за її межами. Автори використовували описовий та аналітичний методи дослідження, а також методи тлумачення правових норм. Проблеми правового регулювання розглядалися через дослідження як міжнародної, так і національної правової бази. Отже, у статті використовувалися різні методи, такі як діалектичний, формально-логічний, аналітико-синтетичний, системно-структурний, формально-юридичний, порівняльно-правовий, прогностичний, логіко-правовий, метод тлумачення правової норми та юридичного моделювання.

**Результати та висновки.** У статті досліджується регулювання права людини на безпечну питну воду як невід'ємну частину здоров'я та життя в Україні та в кожній країні світу. Також аналізується судовий захист цього права як на глобальному, так і на національному рівнях. Головний висновок полягає в тому, що гарантування права на безпечну питну воду є основним екологічним правом людини через визнання його в Конституції України, Основах законодавства про охорону здоров'я, Законі України «Про охорону навколишнього природного середовища», а також у Водному кодексі України. Це значно покращить доступ до чистої води та санітарні умови, згідно з Водною стратегією України, яку планується завершити до 2050 року. Без рівного доступу до безпечної води неможливо реалізувати такі основні права, як право на здоров'я, добробут, достатній рівень життя і навіть громадянські та політичні права. Застосування практики Європейського суду з прав людини (ЄСПЛ) щодо екологічних правопорушень має вирішальне значення для вдосконалення судової практики в Україні. Це зміцнює права громадян через Європейську конвенцію про захист прав людини і основоположних свобод та допомагає усунути юридичні прогалини, зокрема щодо захисту доступу до води. Національні суди повинні враховувати судову практику ЄСПЛ при розгляді питань, пов'язаних з правами на воду. Кодифікація права людини на безпечну питну воду в українському законодавстві дасть можливість національним судам забезпечувати виконання цієї норми, закладаючи основу для комплексної системи захисту.

**Ключові слова:** природні ресурси, водні ресурси, питна вода, екологічні права, право на доступ до безпечної питної води, охорона здоров'я та судовий захист.