

Public Utilities as an ESG-Superecosystem

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A person, his rights, freedoms and guarantees of their implementation are the highest value and goal of society and the state, Article 2 of the Constitution of the Republic of Belarus states. The fulfillment of the ESG criteria (environmental, social and corporate) of economic activity in relation to the communal sphere is an important condition for the free and decent development of the individual, state financial well-being and social cohesion.

The purpose of the work is to summarize the theoretical research of the authors and systematize regulatory legal acts in the field of ESG standards in the public utilities of the Republic of Belarus, to develop directions for their effective application.

Material and methods. *The scientific theoretical and legal basis of the study consisted of the works of Belarusian and Russian jurists on the topic of the research, materials of comparative jurisprudence, normative legal acts. The interdisciplinary method of system analysis, synthesis, modeling, comparative studies, interpretation of law, and legal forecasting were used as the main methods.*

Findings and their discussion. *Public utilities are an ESG (Environmental, Social, and Corporate Governance) SUPER ECOSYSTEM that combines a set of performance standards that increase its competitiveness in solving environmental, social and corporate management problems.*

Conclusion. *The proposals for the legal consolidation of ESG standards in the public utilities of the Republic of Belarus are substantiated. The legal model of modern public utilities requires their management in accordance with the principles of sustainable development, ratified acts of international law and national legislation. Their implementation will require the development of technical regulations of ESG standards for basic utilities, legislative regulation, evaluation of processes and results in accordance with these criteria.*

Key words: *ESG agenda, ecology, social criterion, corporate governance, public utilities, technical regulations, standard.*

Коммунальное хозяйство как ESG-суперэкосистема

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Человек, его права, свободы и гарантии их реализации являются высшей ценностью и целью общества и государства, заявлено во 2 ст. Конституции Республики Беларусь. Выполнение критериев ESG (экологических, социальных и корпоративных) хозяйственной деятельности применительно к коммунальной сфере является важным условием свободного и достойного развития личности, государственного финансового благополучия и сплочения общества.

Цель работы – обобщить теоретические изыскания авторов и систематизировать нормативные правовые акты в сфере ESG-стандартов в коммунальном хозяйстве Республики Беларусь, разработать направления их эффективного применения.

Материал и методы. *Научную теоретико-правовую базу изучения составили труды белорусских и российских правоведов по теме исследования, материалы сравнительного правоведения, нормативные правовые акты. В качестве основных методов использовались междисциплинарный метод системного анализа, синтеза, моделирования, компаративистики, толкования права, правового прогнозирования.*

Результаты и их обсуждение. *Коммунальное хозяйство – это ESG (англ. Environmental, Social, and Corporate Governance) СУПЕРЭКОСИСТЕМА, объединяющая совокупность стандартов деятельности, которые повышают ее конкурентоспособность в решении экологических, социальных и корпоративных управленческих проблем.*

Заключение. *Обоснованы предложения по правовому закреплению ESG-стандартов в коммунальном хозяйстве Республики Беларусь. Правовая модель современного коммунального хозяйства требует его ведения в соответствии с принципами устойчивого развития, ратифицированными актами международного права и национального законодательства. Для их реализации потребуется разработка технических регламентов ESG-стандартов для основных коммунальных услуг, законодательное регулирование, оценка процессов и результатов в соответствии с названными критериями.*

Ключевые слова: *ESG-повестка, экология, социальный критерий, корпоративное управление, коммунальное хозяйство, технический регламент, стандарт.*

Modern society, for its self-preservation and sustainable development, is forced, along with financial results, to impose new additional requirements on economic activity. Among them is the ESG agenda as a reaction to environmental degradation, global

warming, increasing economic inequality between rich and poor, and inconsistency with new challenges of corporate governance structures and procedures. The abbreviation ESG (English – Environmental, Social, and Corporate Governance) combines a set

of standards for the activities of an economic entity that ensure its inclusion in solving environmental, social and corporate management problems.

The purpose of the work is to summarize the theoretical research of the authors and systematize regulatory legal acts in the field of ESG standards in the public utilities of the Republic of Belarus, to develop directions for their effective application.

Material and methods. The scientific theoretical and legal basis of the study consisted of the works of Belarusian and Russian jurists on the topic of the research, materials of comparative jurisprudence, normative legal acts. The interdisciplinary method of system analysis, synthesis, modeling, comparative studies, interpretation of law, and legal forecasting were used as the main methods.

Results and their discussion. The term ESG was first used in a report published by the UN in 2004 entitled “Who Cares Wins”, which notes that taking into account specific environmental and managerial factors in investment decisions can have a positive impact on society, as well as on financial markets. Business entities with a high ESG rating gain competitive advantages. More and more investors, contractors, buyers and consumers are guided by ESG criteria when making decisions about concluding contracts. In order to increase competitiveness in the market, companies and municipalities strive to receive high ESG ratings of independent organizations, which confirm the degree of commitment to responsible business conduct and affect customer loyalty. For example, “green” or social bonds make it possible to attract borrowed funds on more preferential terms [1, p. 164].

The *environmental* criterion evaluates greenhouse gas emissions by a business entity, the use of renewable energy sources, the impact of its activities on climate change, forest reduction, depletion of water and other natural resources of the planet.

The *social* criterion covers the internal organization of an economic entity, including the position of employees, as well as relations with suppliers, customers, territorial and professional communities. We are talking about working conditions at the enterprise, measures for labor protection and health, safety, gender and racial composition of employees, employment of disabled people, medical insurance, creation of conditions for maternity and leisure, improvement of the territory of life. Social ESG requirements promote the attraction and retention of professional employees, increase staff motivation and labor productivity, and involve business in the development of local communities.

Priority is given to the creation of a prestigious school, a comfortable housing development, and a recreation area at the location of the economic entity. High-quality communal services make it possible to maximize the natural advantages of the location of settlements in order to give them an external “gloss” and a continuous increase in economic and humanitarian potential. All this attracts investors and new residents, ensures the self-development of villages and cities.

The criterion of *corporate governance* is aimed at creating an effective management structure of the organization, a fair system of remuneration for employees and managers, a competent external audit and internal control mechanism, reliable guarantees of the rights of shareholders (investors), an uncompromising fight against fraud and corruption.

ESG criteria in public utilities. It is noteworthy that certain ESG principles of socially responsible management have been implemented in practice for two thousand years in the organization and functioning of public utilities (Lat. “commynis” from “munia” – to bear the burden together). The joint consumption of goods and services will be one of the essential features of the ESG economy. It is not the acquisition of ownership and possession, but the joint consumption of material and social goods that is more rational economically and corresponds to the development trends of modern civilization. For example, renting commercial and municipal housing creates conditions for free mobility of people following a more attractive job, frees up finances for investing in income and personal development.

Environmental (environmental requirements) have brought the communal economy to life. The first of them was the problem of supplying water to a million inhabitants of ancient Rome. For the construction of a water pipeline in Ancient Rome in 45 BC, the law *Lex Julia municipalis* (Law on Municipal Administration) legally formalized a communal economy. For the construction and maintenance of this facility, with a length of 71 km, special city authorities were created – the People’s Assembly and the municipality (from Lat. “municipum”, where *munus* is a duty and *cipio* is a burden, which means the burden of public affairs). The municipality (community) has become a kind of corporation of residents united to jointly solve common problems of water supply to a million residents of the city. According to aqueducts (partially functioning at the present time), 400 liters of water per day were supplied per inhabitant. The number of public services also included the free supply of bread to citizens. 300 thousand tons of grain per year were spent for this purpose.

In the second half of the nineteenth century, due to the significant growth of the urban population, the demand for technical infrastructure, water supply and sewerage, as well as social services increased. Keeping cities clean was previously considered the responsibility of homeowners. Anyone who didn't clean his street had to pay a fine. But the owners of land plots, as a rule, did not fulfill their duties. Garbage and sewage were dumped into pits dug on the site or even into the street. The townspeople often bred pigs that wandered and rummaged in garbage and cesspools, which worsened sanitary conditions. Therefore, cities were forced to create enterprises for the collection and removal of household and industrial waste. Shared housing necessarily creates daily needs that can be provided most effectively or exclusively by the residents themselves together (commune). Municipal goods, works and services gradually include the organization of road facilities, water supply and sanitation, energy supply, landscaping, public transport, maintenance of burial sites in proper condition and much more. Solid municipal waste disposal (hereinafter referred to as SMW) occupies the fifth position among the priorities of the world community. In Belarus, a full sorting of up to 10 million tons of MSW per year is required, the bulk of which is exported to 163 landfills with a total area of about 900 hectares. For example, in Sweden 99.5% of waste is used and only 0.5% is stored – this is 2 kilograms per person per year. In Belarus, 300 kilograms of MSW per person per year are transported to landfills [2, p. 34]. The industrial enterprise “Technoresurs” has developed the concept of processing MSW. The technology of their technical processing, including together with sewage sludge, has been developed. The improved technology makes it possible to reduce the scale of construction of processing plants by about 1.8–2 times, energy consumption – by 1.5 – 1.8 times compared to analogous enterprises.

Belarus has already provided regular sanitary cleaning of all rural settlements and 100% coverage of multi-storey residential buildings in settlements with separate collection of MSW.

It is characteristic that the conclusion of a contract for the treatment of SMW is also mandatory for the consumer of the service. In accordance with Article 19 of the Law of the Republic of Belarus № 271-L of 20.07.2007 (ed. of 10.05.2019) “On Waste Management”, municipal waste generated in the territories of settlements is subject to collection and disposal in accordance with the schemes of municipal waste

management developed and approved by local executive and administrative bodies in coordination with territorial bodies. The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus, authorized state bodies and institutions carrying out state sanitary supervision. Resolution № 9 of the Ministry of Housing and Communal Services dated 07.12.2018 approved the Instruction on the composition, procedure for the development, coordination and approval of municipal waste management schemes.

Joint consumption of vital products and services is the most cost-effective and cost-saving. For example, in Sweden, apartment buildings are owned by communes, and residents are guaranteed the right to rent a comfortable home. In most developed countries, social apartment buildings are in communal ownership, and the owners of the absolute majority of other residential buildings are merchants. In such conditions, the subjects of relations regarding utilities have the opportunity to clearly formulate mutual obligations and ensure their reliable performance. Otherwise, communal entrepreneurship could not exist. High-quality communal services for tenants and other customers are the main factor of its survival and commercial success.

In the Belarusian conditions, numerous and unorganized “owners” of apartments are objectively not ready for civilized relations on public utilities. They will always need subsidiary patronage from the authorities. Significant improvements in the communal services of apartment buildings of ordinary consumer qualities with “private” apartments are objectively impossible. There is no self-government in the houses that can stand up for the rights of its tenants, there is no subject for negotiations, utility providers can do whatever they want [3].

It is necessary to inform and convince citizens of the advantages of renting housing. The real sole owner of an apartment or house has more chances to create comfortable living conditions (exclude noise, smoking) and public services. Apartment owners are forced to invest heavily in the repair of their “birdhouses”, replacing linoleum with laminate, wood with plastic. Without income-generating economic activity of the population, apartments will inevitably get depreciated, which will lead to consumer bankruptcy of their owners.

Utilities contribute to the implementation of programs of economy and thrift in the use of energy and material resources, the expansion of the use of local fuels. District housing

and communal services (HCS) are the executors of energy saving programs (electricity and heat). The main directions of energy saving include the replacement of incandescent lamps with energy-saving lamps in administrative and industrial buildings and residential premises; individual regulation of the heating mode in administrative buildings; individual regulation of the hot water supply mode in hot water supply systems of administrative buildings and residential premises; purchase and installation of efficient water heaters; purchase and installation of automatic control systems for heat consumption in residential buildings, replacement of elevators with frequency electric drive during major repairs of residential buildings; replacement of outdated lighting equipment with LED lamps in public areas of residential buildings; replacement of obsolete heat exchangers with more efficient ones; introduction of group, individual metering and automatic control devices in heat, gas, and water supply systems; introduction of frequency adjustable electric drives on mechanisms with variable load (network heating pumping, traction mechanisms of boilers, etc.); introduction of energy-efficient lighting devices, sectional lighting separation.

Social (social criteria) in public utilities are manifested in the fact that public services have a predominantly social non-market consumer character. For example, most families living in apartment buildings are not buyers, but only consumers of utilities. The legislation of the Republic of Belarus establishes guarantees of social protection of a person. In Belarus, the maximum allowable share of citizens' own expenses for housing and communal services in the total family income has been determined, the level of payments of citizens as a percentage of the cost of these services has been established.

Under EU law, a service is recognized as a service of general importance if it has an economic component, is provided in the interests of all citizens of the relevant education throughout its territory at reasonable prices, and therefore the state associates it with the fulfillment of special contractual obligations in the interests of the public good [4, p. 253].

Public services are an important means of preventing and reducing social inequality and insecurity, as well as guaranteeing equal opportunities. The provision of public services is based on the principles of universal access, equality, justice, responsibility. Residents of different levels of wealth, health conditions, rural areas and cities should equally have access to high-quality public

services. For example, under no circumstances is it permissible to disconnect a person from the water supply. At the same time, increased utility tariffs may be set for wealthy consumers. At the expense of additional revenues, a communal fund can be formed to subsidize members of the local community in need of support.

The quality of public utilities determines all the basic living conditions in villages and cities. The communal infrastructure serves as a base for investment, employment and income of residents. All this makes it possible to finance family and community needs at a growing level. Accordingly, residents have the opportunity to earn and invest, build beautiful modern houses, equip household plots, pay for more and more new and high-quality utilities that objectively cannot be cheap. Local government entities also form and maintain comfort, coziness, modern design of buildings and structures in settlements, smooth clean streets with lanes for bicycles and traffic lights for priority bus travel, ecological public transport (the opposite of which is represented by minibuses), an abundance of flowers and trees, diverse architecture through public utilities. High-quality communal services make it possible to maximize the natural advantages of the location of settlements in order to give them an external gloss and continuously increase economic and humanitarian potential. All this attracts investors and new residents, ensures the self-development of villages and cities.

Corporate Governance (corporate requirements) was formulated for the first time in history in the process of organizing a municipal economy. Municipal (communal) enterprises were the prototype of future corporations. Their history goes back more than 2000 years, and they are four times "older" than commercial structures.

In the work of municipal enterprises, there is a conflict between the need to provide socially significant services and the desire for profit. The efficiency of municipal enterprises is a complex, multidimensional category that combines economic, social, and environmental factors. At the same time, they have been functioning for many centuries. This fact testifies to the effectiveness of their internal organization, which continuously adapts to new tasks. They manage to overcome the threats of mismanagement, "stagnation of monopoly", rising costs. Organizational and functional involvement in the body of the local community contributes to success. Integration is carried out on the basis of legal, financial, economic, technical, personal interactions.

A territorial entity and an enterprise are closely intertwined economically and technically within the framework of the exchange of services, the provision of land, property, the supply of resources and energy.

In the municipal economy, the organizational and legal form of state-owned enterprises is possible, allowing, in contrast to their unitary form, the creation of such enterprises without the status of a legal entity, which can facilitate the legalization of these business entities, accounting and reporting. It is advisable to create communal savings banks that organically combine commercial and social principles in their status.

Conclusion. The main purpose of economic activity is systematic profit-making. The use of property, the sale of things, the performance of works, the provision of services bring profit if other entities consume certain properties of this property, works, services and in return pay for them or make other counter-provision. Properties are consumed only when they are able to satisfy the needs of the subject. Such ability of properties of assets, works, services is called their quality. According to Article 1 of the Law of the Republic of Belarus of 09.01.2002 № 90-L (ed. of 05.01.2022) “On Consumer rights protection”, the quality of goods (work, services) is a set of characteristics of goods (work, services) related to its ability to meet the established and (or) expected consumer needs (safety, functional suitability, operational characteristics, reliability, economic, informational and aesthetic requirements, etc.). Quality can be ensured by technical, organizational, economic and legal means.

Technical means – improvement of production technology, technical quality control.

Organizational means – the formation of subdivisions of business entities responsible for quality, relevant public organizations and public administration bodies. Economic means – the creation of economic conditions that stimulate the improvement of product quality.

Legal means – legislative regulation of product quality. The quality legislation of the Republic of Belarus has been brought into line with international practice, WTO and EAEU Agreements [5, pp. 268–269]. The quality problem largely concerns public

utilities. The analysis of the studied material allows us to draw the following conclusions:

1. Until recently, the organization and results of economic activity of public utilities have been criticized as not meeting the criteria of commercial performance, the main of which is profit. However, the environmental and social tasks implemented in the communal sphere are really recognized and legally established as mandatory for all business entities.

2. The solution of many environmental problems, such as water management, removal and processing of MSW, landscape preservation, air cleanliness, soil protection, energy saving, noise control is included in the scope of public utilities due to proximity to a person and his life problems. Decisions related to the environmental impact are made by various structures, and the main protective measures are implemented by the subjects of public utilities.

3. The legal model of modern public utilities requires its management in accordance with the principles of sustainable development, ratified acts of international law and national legislation. Their implementation will require legislative consolidation of the system of technical regulation, as well as assessment of processes and results of communal activities by ESG criteria. It is advisable to develop technical regulations and ESG standards for basic utilities.

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