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LEGISLATIVE REGULATION OF THE ENVIRONMENTAL SITUATION IN RUSSIA: CURRENT STATE AND CURRENT PROBLEMS

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Abstract

The article discusses the legal regulation of environmental protection in Russia. It is shown that, despite the efforts of state structures, the effectiveness of regulatory legislative acts on environmental protection and environmental safety still needs significant improvement, as evidenced, first of all, by the state of the environment in most of the territory of the Russian Federation, which can invariably lead to deterioration of public health, depletion of natural resources. Practice has shown that an increase in the number of articles of environmental legislation is weakly able to influence such a situation. Moreover, this leads to increased inconsistency between regulatory legal acts, and sometimes to direct contradiction, competition between the norms of existing laws and the emergence of laws with an unreasonably narrow subject of legal regulation.

Keywords: ecology, law, land, law, society.

I. INTRODUCTION

The problem of the low efficiency of legal regulation in this area is complicated by the lack of consistency in environmental legislation as a single legislative complex. Until now, the branches of legislation regulating public relations for environmental protection and ensuring environmental safety, for the use and protection of individual natural resources, have been formed as completely independent and largely self-sufficient legal formations. At the same time, the organic connection of all components of the environment, the objectively existing interdependence in the regulation of relations on environmental protection and ensuring environmental safety with relations on nature management encourage the search for new directions in the systematization of the branch of environmental legislation.

Among the measures that can really be opposed to these processes in the legislation that negatively affect the state of the environment and human health, an important place is occupied by the systematization of environmental legislation, which will streamline the legal regulation of relevant social relations and improve the quality of laws and other regulatory legal acts. However, to achieve positive results, the systematization processes must be coordinated with the scientific understanding of the problem, requiring a systematic theoretical justification.



II. METHODOLOGY AND RESULTS

The methodological basis of the article is natural science and philosophical views on the interaction of society and nature; international principles of environmental protection; constitutional foundations of environmental legislation. The following methods were used: a) universal methods - historicism and formal-logical; b) general scientific methods - comparison, analysis and synthesis of information, generalization, modeling, system method; c) special scientific methods - construction of scientific theories, presentation of scientific results, etc. The theoretical basis of the study was the works in the general theory of law by S.S. Alekseeva, S.N. Bratusya, D.A. Kerimova, N.S. Maleina, G.N. Manova, M.N. Marchenko, B.C. Nersesyants, A.C. Pigolkina, C.B. Polenina, I.S. Samoshchenko, Yu.A. Tikhomirova.

To analyze the existing environmental legislation, it is necessary to bear in mind the following fundamental theses. The first one is of a general theoretical nature. The concept of "legislation" in legal science is understood in two aspects: in the narrow sense, when it means the totality of laws as acts of the highest legal force adopted by the legislative authorities of the Russian Federation and the constituent entities of the Russian Federation, and, secondly, in a broad sense, legislation means the entire an array of normative legal acts regulating the relevant sphere of public relations. When developing the concept of environmental policy, it is necessary to consider the state and problems of regulating environmental relations in this aspect. At the same time, strict observance of the general legal principle of subordination of normative legal acts is necessary: by-laws (decrees, resolutions, regulations, etc.) cannot contradict legislative acts that are superior in legal force.

The second aspect is sectoral. Recently, discussions about the concept and content of environmental legal relations, environmental legislation and, in general, environmental law have resumed and are very actively conducted in the environmental legal literature. Disagreements about the terminology arose at the first stage of the work and among the specialists involved in the development of the concept of environmental policy. In this regard, it is necessary to develop a unified approach to this problem.

To solve environmental problems we should

At home	At school	In the town	In the country
not throw the rubbish	clean the territory	take care of the park	make new ecological laws
make birdhouses	plant trees	clean our rivers and lakes	use good filters in cars, buses and plants
grow flowers	tell our schoolmates about these problems	not destroy forests	save natural resources



All the variety of points of view expressed in the environmental and legal literature on this subject, with a sufficient degree of conditionality, can be reduced to two main concepts - a narrow or broad interpretation of environmental law. It should be noted that in recent years the trend of a narrow interpretation of environmental law has dominated, when only relations regarding the protection of the natural environment are considered as a subject. Accordingly, environmental legislation is understood as a set of legal acts regulating only this narrow sphere of social relations. In the second case, the structure of environmental law also includes relations related to the use of natural resources, and, accordingly, environmental legislation is understood as the entire array of legal acts regulating relations in the "society-nature" sphere. In any case, it was in this form that the system of environmental law initially looked (late 80s), when the very concept of environmental law was formulated. Moreover, in the 90s, the deepening of the ecological crisis, the destruction of the human environment led to the inclusion in the subject of the industry of relations to ensure the environmental safety of man. Thus, environmental legislation currently consists of three subsystems:

- legislation regulating relations in the field of environmental protection;
- legislation regulating relations on rational use of natural resources;
- Legislation regulating relations in the field of human environmental safety.

All three subsystems serve as the basis for the implementation of the state environmental policy of Russia, the strategic goal of which is to ensure the sustainable, rational use and protection of the entire range of natural resources, the realization of the right of present and future generations of people to a favorable environment, creating the basis for the transition to sustainable development and ensuring environmental safety population (see Materials of the Center for Environmental Policy of Russia).

And, finally, the third most important thesis, reflected in the Constitution of the Russian Federation: all of the listed relations in accordance with paragraphs. "B", "D", "K" Art. 72 of the Constitution relate to the joint jurisdiction of the Russian Federation and the constituent entities of the Russian Federation. From a legal point of view, this means that there are two levels of legislation in this area: the legislation of the Russian Federation and the legislation of the constituent entities of the Russian Federation, which cannot contradict it.

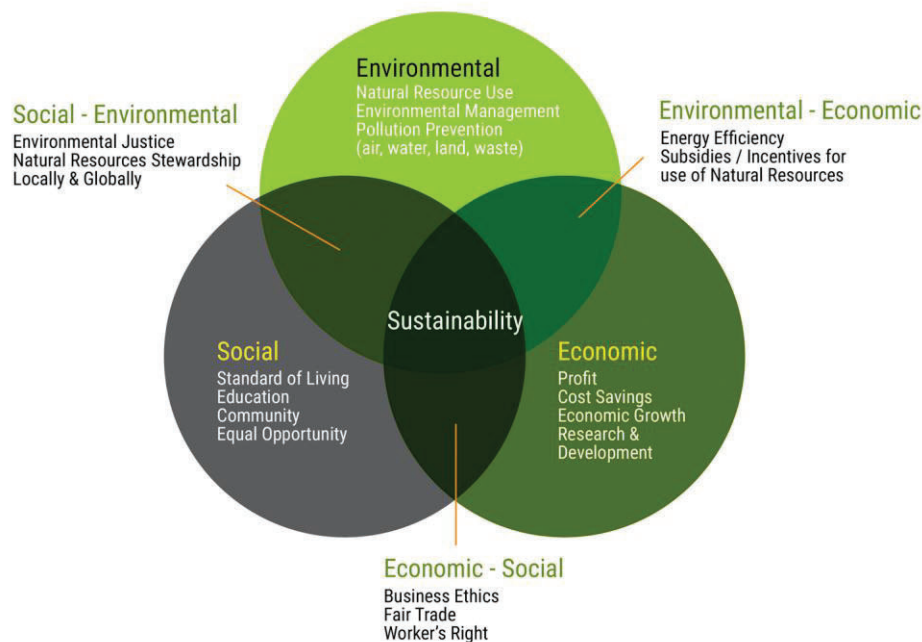
In accordance with Article 12 of the Federal Law "On the principles and procedure for delimiting the subjects of jurisdiction and powers between the state authorities of the Russian Federation and the state authorities of the constituent entities of the Russian Federation" of 1999, "on issues referred to by Part 1 of Article 72 of the Constitution of the Russian Federation as subjects of joint jurisdiction of the Russian Federation and constituent entities of the Russian Federation, federal laws are issued that define the foundations (general principles) of legal regulation, including the principles for delimiting powers between federal state authorities and state authorities of the constituent entities of the Russian Federation, as well as federal laws aimed at exercising the powers of federal state authorities.

Prior to the adoption of federal laws on issues classified as subjects of joint jurisdiction, the subjects of the Russian Federation are entitled to exercise their own legal regulation on such issues. After the adoption of the relevant federal law, laws and other regulatory legal acts of the subjects of the Russian Federation are brought into line with the adopted federal law. The situation in environmental legislation at the moment is as follows: a number of legislative and other legal acts do not correspond to the political, economic, social changes taking place in society and require significant adjustments taking into account the prevailing social relations. A large number of gaps in the legal regulation of environmental relations necessitates the development of new laws. The legislation contains references to non-existent laws (Article 41 of the RF VC, Articles 41, 42 of the Federal Law and Regulations, etc.), as well as by-laws, which leads to a decrease in the effectiveness of the implementation of environmental legislation, to its declarative nature; and, thirdly, the creation of new legislative acts does not have a sufficiently solid, scientifically substantiated base. Legislative work is carried out, as a rule, haphazardly, without a serious justification for the need to develop, amend, supplement, or cancel certain legislative acts. From the point of view of improving federal legislation, two main directions seem to be priorities. Firstly, it concerns the fundamental law in the field of environmental relations - the Law of the RSFSR "On the



Protection of the Environment". Adopted in 1991 as the first comprehensive act, it laid the foundation for the formation of a new generation of environmental legislation and played an exceptionally positive role in its development. First of all, this concerns the concept of the Law itself, the principles, as well as such institutions as the economic mechanism of environmental protection, environmental expertise, the right of citizens to protect health from the adverse effects of the environment, and a number of others. The ten-year practice of the operation of the Law has shown the effectiveness of these and many other institutions containing norms of direct action. On the other hand, it should be noted that this act, being the main one in environmental law, was to a large extent initially oriented towards subsequent development within the framework of other legislation (environmental, budgetary, tax, civil and other), however, did not find an adequate reflection and development. Thus, the improvement of environmental legislation is seen, first of all, in the new edition of the head law, which should accept the concept of the 1991 Law, but at the same time, reflect a qualitatively different content of environmental relations and provide a mechanism for implementing the norms.

THE THREE SPHERES OF SUSTAINABILITY



And, secondly, it is necessary to adopt a number of special laws regulating certain specific relations, in particular, on compulsory environmental insurance, environmental disaster zones, environmental audit, and a number of others. *These areas should be considered as real opportunities for improving environmental legislation in the near future. As for its further development, it should be associated with its phased codification, alignment of the levels of all three subsystems and the creation of the Environmental Code of Russia, which will bring together the rules governing all types of environmental relations (on environmental protection, rational use of natural resources, ensuring environmental safety).* At the same time, the assignment by the Constitution of environmental relations to the subject of joint jurisdiction makes it possible, when implementing such regulation, to take into account not only national, but also regional interests, but also, which is very important, makes it possible for the constituent entities of the Russian Federation to quickly eliminate gaps (Article 12 of the Federal Law "On the principles and the procedure for delimiting the subjects of jurisdiction and powers between the state authorities of the Russian Federation and the state authorities of the constituent entities of the Russian Federation).



It is necessary to highlight the main problems that objectively impede the improvement of regional legislation: delimitation of the property rights of the Russian Federation and subjects of the Russian Federation to natural resources (most of the federal resource acts do not give an unambiguous answer to this question); delimitation of jurisdiction and powers between the Russian Federation and the constituent entities of the Russian Federation, which have not yet been adequately reflected in the current legislation. In the context of a federal structure, there are at least two risk factors in the formation of regional legislation.

The first is related to the duplication of federal legislation, as was the case in Soviet times. Legislation was built on the principle - the Foundations of the Union - the codes of the republics, which in fact completely copied the union law. And, conversely, in the implementation of their own legal regulation, the subjects often go beyond the limits established by federal legislation. This is especially dangerous in the absence of a full-fledged federal legislative act. Let's try to demonstrate this thesis on specific examples. It is a well-known fact that since the adoption in 1993 of Presidential Decree №. 2287 "On Bringing the Land Legislation of the Russian Federation into Line with the Constitution of the Russian Federation", the country has virtually no Land Code. In this regard, the subjects of the Russian Federation were forced to regulate these relations at the regional level. Accordingly, the content of these acts is determined by the political, economic and other priorities prevailing in the region. However, the question arises, what caused the need to develop and adopt such a legal act? The answer suggests itself: at the regional level, just like at the federal level, there is no solid, scientifically based basis for the formation of environmental legislation.

III. CONCLUSION

It is well known that the legislative process is a rather expensive pleasure, and therefore the adoption of each new law should be objectively necessary. This may be due, firstly, to the gaps in the federal legislation, and, secondly, to the peculiarities of the region that cannot be taken into account in the federal law.

In this regard, it seems appropriate to develop the Concept for the Development of Environmental Legislation in the Regions, which is a system of provisions on possible directions for its development, goals, objectives, principles, as well as criteria that allow determining the priority of the adoption of regulatory legal acts.

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ЗАКОНОДАТЕЛЬНОЕ РЕГУЛИРОВАНИЕ ЭКОЛОГИЧЕСКОЙ СИТУАЦИИ В РОССИИ: СОВРЕМЕННОЕ СОСТОЯНИЕ И АКТУАЛЬНЫЕ ПРОБЛЕМЫ

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Аннотация

В статье рассматривается правовое регулирование охраны окружающей среды в России. Показано, что, несмотря на усилия государственных структур, эффективность нормативных законодательных актов по охране окружающей среды и экологической безопасности все еще нуждается в значительном совершенствовании, о чем свидетельствует, прежде всего, состояние окружающей среды на большей части территории Российской Федерации, что неизменно может привести к ухудшению здоровья населения, истощению природных ресурсов. Практика показала, что увеличение количества статей природоохранного законодательства слабо способна повлиять на такую ситуацию. Более того, это приводит к усилению несогласованности между нормативными правовыми актами, а иногда и к прямому противоречию конкуренции между нормами действующих законов и появлению законов с неоправданно узким предметом правового регулирования.

Ключевые слова: экология, право, земля, закон, общество.

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