Environmental crimes: concept and characteristics

Petr Lang¹*

¹Samara State University of Economics, Samara, 443090, Russia

Abstract. The article analyses the theoretical provisions of the system of environmental crimes in the Russian Federation. The positions of modern authors concerning the main characteristics of the crimes studied are studied. The main objective of this work is to develop a comprehensive definition of the concept of "environmental crimes", highlighting their characteristics and its relationship with related categories. The relevance of the present study is first determined by the steady growth of quantitative and qualitative indicators of national crime, which indicates the inefficiency of existing mechanisms of criminal law counteraction to environmental crimes. The author believes that the resolution of applied problems directly related to the practical activities of law enforcement agencies is possible only with the resolution of basic theoretical issues, among which a special place is given to theoretical and conceptual aspects of environmental crimes. Thus, the problematic of the concept and characteristics of environmental crimes is of particular importance, especially in the light of the lack of a legislative approach to the definition of the category in question.

1 Introduction

The Constitution of the Russian Federation guarantees the right of every person to a favourable state of the environment, and obliges everyone to conserve and protect natural resources [1]. However, at the moment there are many problems with the provision of environmental security of the population. The growing irresponsible consumerism towards the natural environment - environmental crime in the country and the world is gaining momentum every year - puts the earth at risk of ecological disaster. And a polluted natural environment has an undeniably negative impact on the quality and standard of living, as well as on the health of the population. Consequently, it is imperative to improve the apparatus of counteraction and prevention of environmental crimes, taking into account the peculiarities of their investigation. To date, the theoretical and practical characteristics of this category of crimes have not been sufficiently studied, which greatly determines the relevance of the chosen topic of research.

* Corresponding author: petr.lang@mail.ru
2 Materials and Methods

The methodological foundation of this study comprises general scientific and private methods of knowledge, modelling, logical and statistical method, analysis, comparison and synthesis of practical and literary material. At the same time, the author of the study actively applied comparative legal, historical, and systematic methods of research.

3 Results

Due to the ambiguous definition of eco-crimes, the object of these crimes includes many categories: the natural environment as a whole and its components, interests of economic activity, environmental relations, environmental safety of population and territory, etc. Thus, the object of eco-crimes can be called a complex set of social relations, their legal form and material side, implementation of which provides the activity of society and the state, use of natural resources, satisfaction of needs, and guarantee of safety.

The objective side is presented in the form of an action (deliberate pollution of water bodies, hunting, etc.) or inaction. It is expressed in unlawful non-compliance with the legislation in the field of environmental protection and use of natural resources, eco-security, infliction of harm to public health or the environment, causal connection between specific acts and consequences. Establishing the objective side of environmental crime is a difficult and time-consuming task for law enforcement agencies. The elements of the objective side in a number of environmental crimes are mandatory.

The subject of eco-crime is components (elements of material world) of environment, for instance, flora and fauna, forests, subsoil, water resources, products of human life activity - wastes and substances, and natural resources in general. The subject of these illegal activities is a part of the object, and it plays a key role in the legal evaluation of a criminal act.

The subject of eco-crime is a person who has reached the age of sixteen, as a general rule. This person must be sane and have other special characteristics enshrined in article 19 of the Criminal Code of the Russian Federation (hereinafter - CC RF) [2]. The subject may be special - a person, who on the basis of normative-legal acts and by virtue of his official position performs certain actions to organize work, control and ensure safety. Norms of criminal law apply to him for crimes committed in abuse of his official position. However, in criminal law only a natural person, not a legal entity, can be a subject. This issue is very relevant in the present time for applying penalties to organisations that have committed environmental offences.

From the subjective side, environmental crimes under domestic criminal law are characterised by intentional and negligent forms of guilt. They are enshrined in specific corpus delicti, which makes it possible to clearly distinguish between crimes with intentional and negligent forms. However, regarding environmental crimes, the guilt arising from negligence occurs in the only case - only in part 1 of article 261 of the Criminal Code of the RF [2].

The consequences of environmental crimes are most often manifested in:
- significant deterioration of the state of the natural environment, which leads to the reduction of human life expectancy, increase in the number of diseases, deterioration of heredity, soil pollution, etc;
- formation of ecological disaster zones, depletion and degradation of renewable and non-renewable natural resources
- emergence of man-made risks of major accidents at enterprises;
- deterioration of water bodies;
- atmospheric air pollution and dangerous climate change;
poor quality of food production, etc. [4, 7, 10, 13].

Thus, environmental crimes as an ambiguous legal phenomenon mainly depend on the legal cultural level of society and the legislative framework in the country. They are quite diverse and are always associated with violations of the use of natural environment, rules of its protection, etc. The legal basis for such offences can be referred to as variability and public danger - this hides the main problematic issues when dealing with eco-crimes.

Based on the above, it should be noted that the lack of a unified concept of "environmental crime" in the modern world leads to ambiguous conclusions and misinterpretation of the essence of this type of offence. This, in turn, can lead to an inability to distinguish one crime from another and distort the investigation process.

4 Discussion

Let us analyze the views of different authors on the subject of the concept of "environmental crime".

The concept of environmental crime was first promulgated in the scientific community in 1980 by V.D. Pakutin, but it was legislated only at the time of entry into force of the Criminal Code of the Russian Federation in 1996 in the chapter 26 "Environmental crimes" with the same name. [2]. However, at the moment the very definition of these crimes does not officially appear in the legislative acts of our country. A number of scientists suggest that such a gap in the legislative acts leads to ambiguous and subjective interpretation of the term "environmental crimes", which can lead to incorrect perception of situations and ineffective organization of practical activities of law enforcement agencies.

At the moment there are many different scientific works and articles describing definitions of eco-crimes, and all of them have their place. For example, A.M. Pleshakov considers environmental crimes as negative, complex socio-legal phenomena, which are composed of a set of crimes that undermine the biological basis of human existence [11].

According to E.N. Zhevlakov, "environmental crime is a socially dangerous, guilty, punishable, prohibited by law act aimed at causing damage to relations in the field of ecology". [6].

According to E.V. Ovcharenko, an environmental crime can be recognized as a criminal act that violates the norms and rules of environmental legislation, and also causes significant harm to a certain natural object [5].

One of the prominent environmentalists M.M. Brinchuk considers criminal acts in the field of environmental protection as unlawful, guilty actions that are committed by a "fit" subject of crime, causing or causing a real threat of harm to the environment, or violating the rights and interests of other subjects of environmental legal relations [9].

O.L. Dubovik calls eco-crime "criminal law and prohibited by it under threat of punishment, guilty socially dangerous actions or inactions that encroach on the environment and its components, rational use and protection of which ensure optimal human life, as well as the environmental safety of the population of territories, and consist of direct illegal use of natural objects as social value, leading to negative changes in the state and quality of the environment". [3].

Also environmental crimes are called a set of crimes that violate environmental legislation and have a harmful impact on the natural environment and public health.

We propose to describe eco-crimes more succinctly as follows: these are dangerous to the public actions, which are provided for by Chapter 26 (articles 246 - 262) of the Criminal Code of the RF, which can be committed intentionally or negligently, which can infringe on the legal order established in the country, environmental norms and regulations, environmental relations, public safety and, of course, cause irreparable harm to the environment and human health.
5 Conclusions

The classification of a crime as environmental crime is based on social and natural patterns of interaction between society and the natural environment and the mechanisms of various anthropogenic activities. The main features of eco-crimes are:

- socially dangerous significance of the actions (inaction) of a person in relation to the natural environment (public danger);
- development and use of objects (components and resources) of the natural environment, which are directly prohibited by provisions of the legal framework (illegality);
- direct alteration of the environment, which causes damage to the quality of the natural environment as a whole and its individual components, expressed in a special mental attitude of the offender towards his own actions or inaction (culpability);
- violation of human rights to a quality favourable natural environment and reliable information about it;
- high level of latency;
- punishability.

A distinctive feature of environmental crime is public danger, which is expressed in quantitative and qualitative indicators. The qualitative indicator is characterized by values determined by society and opposed to them by illegal actions or omissions, i.e. the divergence between the interests of society and "non-environmental" human behavior. This can include infringements on the rights to a healthy environment, on public and public health, as well as the degradation of eco-safety, etc. Eco-crime is quantified in the amount of damage and harm caused to the environment or human health. This is the case, for example, with the extinction of animals, changes in the composition and quality of water in bodies of water, etc.

Environmental offences are among the most dangerous types of crime, as they depend on direct human economic activity and, in their totality and gravity, the crime may affect the whole planet, e.g., an increase in disease due to degradation of the natural environment, deterioration of products, occurrence of ecological disaster areas, depletion of natural resources, global climate change, etc. The extent of environmental crime and the extent of its negative impact depend solely on the social dimension.

There are no in-depth studies of the causes of environmental crimes and offences in the modern legal literature. However, some researchers empirically identify the following common causes of eco-crime as common:

1) weak state control over the use of natural resources, in particular at the design stage;
2) lack of strict punishment for ecological crimes (the offender is often either exempted or held administratively liable) - it is more profitable for a company to break the law than to obey it because of the high economic costs;
3) contradiction between the environment and society - different objectives of enterprises, environmental legislation and the state;
4) declining living standards and unemployment;
5) urbanisation, high level of industry;
6) low environmental awareness and culture or lack thereof among the population;
7) imperfect and inconsistent environmental legislation;
8) underdeveloped prevention, detection, and suppression of eco-crimes;
9) lack of environmental knowledge of judicial and investigative bodies;
10) technological backwardness of the country, lack of state strategy of economic growth through improvement of "clean" production and development of non-waste production [8].
References

9. R.L. Khachaturov, Offences in the modern legal reality (monograph, Moscow, Yurlitinform, 2019)
10. P.R. Bazarov, Criminal legal protection of especially valuable objects of the wildlife (monograph, Moscow: Yurlitinform, 2020)
13. O.A. Shapiro, Vestnik SJUA 5(118), 251-255 (2017)