The subject matter of environmental law: analysing approaches and framing the problem

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Abstract: The article analyses the provisions of the domestic legislative base and legal doctrine on the subject of content characteristics of modern environmental law. In particular, the issues of the concept and content of the subject of environmental law are investigated, separate positions of domestic researchers and specialists are studied, the author's conclusions on the stated subject are presented. Key words: environmental law, subject of environmental law, public relations, legal relations, protection of ecology and environment.

1 Introduction

The relevance of the research topic is beyond doubt for the following reasons.

First, the domestic environmental legislation, according to domestic experts needs updating, the existing legal norms that determine the procedure for the use of natural resources, their protection from unlawful encroachments do not meet modern legal standards, which ultimately affects the state's ability to establish law and order in the field under study. At the same time, there is a problem of the need to systematise environmental legislation, which is based on the branch of law of the same name. Undoubtedly, the above problems are partly placed in the plane of theory, however, their resolution will allow successfully overcoming applied problems.

Second, legal doctrine is characterised by the presence of many ambiguous approaches to the assessment of attributive and substantive characteristics of environmental law, the clarification of the meaning of their content and significance will largely predetermine the vector of development of environmental law, as well as to establish the most optimal course of law-making activities in the sphere of use and protection of natural resources.

Third, the importance of research in the field of ecology is extremely high because society and nature are the most important elements of the planetary ecosystem, and the level of well-being, physical and mental health, as well as the life of future generations, largely depend on the attitude of man to nature.

Thus, the study of the subject of environmental law is one of the priority areas of activity, which will ultimately resolve a number of applied problems arising in objective reality.

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2 Research methods

The author of the publication used a very wide range of methods of scientific research, including:
- general scientific methods,
- private-scientific methods,
- special methods.
The methods of analysis, synthesis, induction, deduction, system-legal, etc. were actively used in the study of doctrinal approaches.

3 Results

The main results of the present study are the accumulation of theoretical ideas on the subject of modern environmental law, the positions and opinions of domestic researchers and specialists are investigated, and the authors' conclusions on the stated subject are presented.

The main results include the following (Table 1).

Table 1. The main results

<table>
<thead>
<tr>
<th>First</th>
<th>First, one of the few attempts to form the content of the subject of environmental law on the basis of accumulation of the available theoretical material devoted to domestic environmental law.</th>
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<td>Second</td>
<td>Second, the assertion of the thesis on the isolation and independence of environmental law, according to which it is reasonable to consider the mentioned branch of law as an independent one endowed with a number of specific properties and features.</td>
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<tr>
<td>Third</td>
<td>Third, the norms of environmental law are concentrated in various branches of national law, their &quot;forced&quot; withdrawal and placement in a legislative act of the same name is impossible due to the fact that some of them, in particular protective ones, are placed in separate legal documents, the competence of which is exclusive in matters of protection of certain legal relations.</td>
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4 Discussion

The development of the newest legislative acts that would determine the legal procedures for the use and protection of environmental objects is impossible without clarifying the meaning and content of certain categories and phenomena placed in the plane of modern environmental law. In other words, the correct definition of the purpose and subject of modern environmental law will allow the domestic legislator to correctly determine the boundaries of application of the norms of law of the relevant branch in objective reality.

It has been repeatedly noted by the national experts that the mentioned branch of law is characterised by an abundance of problems, both theoretical and applied. Within the framework of the present study, the author draws the reader's and doctrinal community's attention to the issues of determining the subject of environmental law, since the stated problematic remains relevant, due to the presence of a variety of scientific approaches existing in legal science, their ambiguity in their own content.

At the same time, the accumulation of the provisions of legal doctrine in the part of the investigated problematic will allow to mark a new round of development of environmental law, which will ultimately determine the further formation of the domestic legislative base in the field of protection and use of environmental objects.

According to the fair observation of the famous Russian specialist F.M. Tulpanov, the modern environmental law is a constituent element of social ecology [1]. Thus, when creating environmental-legal norms, the legislator, first of all, relies on natural knowledge, which is part of the social and technical sciences. It is well known that the lawmaking process in this area is in interrelation with social processes, which predetermine the nature of the degree of human and social impact on the environment.

Certainly, describing the structure and content of the main characteristics of modern environmental law it is necessary to state that this branch of law has a very complex structure, which includes norms of other branches and sub-branches of domestic law. Land, civil, administrative, criminal and other law types can be cited as examples.

The understanding of the concept of environmental law is possible through the prism of the content of its subject. In this case, we share the point of view of the above author that the essence of the subject of environmental law has a tremendous impact on the conceptual colouring of environmental law.

In legal doctrine, the problem of the content of the subject of environmental law has acquired an unusually high resonance. There are still unresolved issues of environmental legal theory. Moreover, as a result of heated discussions between prominent representatives of legal doctrine, the status of environmental law in the system of national law is not clear. In particular, the positions of such authors as M.K. Bogolyubov and S.A. Suleimenov should be cited[2].

However, before we consider the concept and content of the subject of environmental law, it is necessary to pay attention to the content of this category in the theory of law.

The subject matter of a branch of law is traditionally understood in legal science as a set of social relations, legal regulation of which is carried out through the application of normative-legal prescriptions located in a particular branch of law. The boundaries of the law branch subject are determined by the boundaries of the application of specific legal prescriptions, concentrated in the branch of the relevant legislation.

We will consider the author's positions concerning the category of the subject of environmental law.

V.V. Petrov in his works notes that the subject of environmental law are homogeneous and interrelated social relations in the sphere of interaction between society and the environment [3]. At the same time, this author categorically denied the independence of the branch of environmental law, its isolation in the system of the national legal system. In
other words, environmental law acts as a set of differentiated legal norms, placed in the plane of various branches of law, including criminal, civil, administrative, land law, etc., which are the subject of environmental law.

Prominent Russian lawyer B.V. Erofeev believes that the subject of environmental law is public relations of a special nature, which are in contact not only with natural objects, but also endowed with a multitude of internal and external links between environmental objects, including various phenomena, processes and conditions [4].

F.M. Tulpanov believes that the subject of environmental law is public relations, the normative-legal regulation of which is ensured by the norms of environmental and natural resource law, as well as legal relations arising in the process of interaction between society and nature [1]. At the same time, the author emphasises the independence and separate position of modern environmental law.

The legal doctrine also knows the approaches according to which the subject of environmental law is ownership relations on various natural resources, as well as relations arising in the process of their use by man [5].

Undoubtedly, each of these positions is predetermined by the position of the branch of environmental law in the national legal system. Conventionally, these positions can be differentiated into two main groups.

The first group of authors and specialists is based on the thesis that environmental law is an independent and isolated branch in the system of national law, while the other group, on the contrary, believes that environmental law was formed as a result of the merger of various legal norms concentrated in the already traditional branches of the national legal system [6].

5 Conclusions

Summarising the above, the author believes that the subject of environmental law should be called a set of homogeneous and interrelated legal relations, the normative-legal regulation of which is carried out through the application of not only the norms placed in separate legislative acts in the field of ecology and environmental protection, but also those enshrined in criminal, administrative, and civil laws, which to a greater or lesser extent have a regulatory impact on the relationship between man and the environment. It should be taken into account that a number of protective norms simply cannot be moved from, for example, the criminal law into separate normative-legal documents of environmental legislation, due to the fact that the definition of criminality and punishability of acts is the exclusive competence of the Criminal Code of the Russian Federation.

It should be noted that the content of the subject matter of environmental law, its internal content, largely predetermines the types of crimes and offences that may be committed in the field of ecology that are permissible, from the point of view of legislative acts. This state of affairs is determined by the fact that social relations, which act as the subject of environmental law, are simultaneously the object of the corresponding unlawful encroachment, so the definition of the boundaries of the phenomenon under study predetermines the specificity of the process of legal assessment of the deed, i.e., the qualification of acts.

Thus, the subject of environmental law should be considered as a significant component of the designated branch of law, which predetermines its nature, internal content, and permissible methods of legal regulation. In particular, the types of social relations, their nature, and specificity are in deterministic connection with the mechanisms of legal regulation.
References


3. V.V. Petrov, Ecological Law of Russia (Moscow: BEC Publishing House, 1995)

