Environmental crimes: theoretical and legal analysis and problem definition

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Abstract: The article reviews the provisions of domestic legislation and legal doctrine on the concept and classification of environmental crimes. The authors' positions and approaches concerning attributive and substantive characteristics of environmental crimes are presented, the problems of realisation of legal responsibility for their commission are outlined, and the ways of their resolution in the foreseeable future are outlined. Key words: environmental crimes, environmental offenses, ecology, legal responsibility, socially dangerous consequences.

1 Introduction

For modern Russian society and state, the problem of creating and ensuring an appropriate level of environmental security is one of the urgent problems, structurally included in the complex of the phenomenon of national security of the state. Undoubtedly, the problem of environmental protection is also significant for the international community. The creation of the newest mechanisms of organization of production processes in the sphere of economic activity often leads to the emergence of adverse emissions into the environment, which ultimately undermines the health of the population and forms a spectrum of fundamental problems for future generations. The irresponsible and consumerist attitude towards natural resources entails the emergence of an ecological catastrophe of global scale [1]. In other words, nature and its resources are critical components of human life, which ultimately epitomizes the state of public health.

In recent decades, with the advent of a new format of socioeconomic relations in society and the state, the vector of legislative and state building has changed significantly not only externally, but also internally [2]. Thus, many legal documents were adopted to improve the legal mechanisms of environmental protection. At the same time, the technological processes that directly form the basis of economic activity of economic entities were modernized and brought into compliance. However, the domestic legislator failed to fully regulate the environmental issue. The issues of systematization of domestic environmental legislation, issues of implementation of legal responsibility for committing environmental offenses and crimes, etc. are still relevant.

Thus, the relevance of the research topic is determined by the imperfection of the provisions of domestic environmental legislation, the presence of many significant doctrinal

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problems and insufficient scientific development of the issues considered in this publication.

2 Materials and Methods

The author used a very wide range of methods of scientific research, including analysis, synthesis, induction, deduction and others.

These methods allowed to summarize the results of the study, formulate reasonable conclusions on the problems of development of environmental law of the Russian Federation.

Special attention was paid to modern methods of cybernetic research, which made it possible to determine the range of significant doctrinal and normative-legal sources on the stated subject with the use of electronic-computer technology.

3 Results

The author proposes the following measures to improve the provisions of criminal legislation on the issues under study (table 1).

Table 1. measures to improve the provisions of criminal legislation on the issues under study

1	development and integration of the legal definition of environmental crime into the system of criminal legislation;
2	adoption of a number of resolutions of the Plenum of the Supreme Court of the Russian Federation on the practice of application of norms establishing criminal liability for environmental crimes in order to eliminate discrepancies;
3	strengthening legal liability for environmental crimes through the integration of a combined approach to sentencing.

The domestic legislator should pay special attention to the issues of systematization of environmental legislation. In recent decades, there has been an urgent need to adopt a regulatory legal document that would combine legal norms governing environmental legal relations. In the first decades of the formation of modern Russia such attempts were made repeatedly, in particular, the legislator developed a draft Environmental Code of the Russian Federation, which, unfortunately, was not adopted and put into effect.

Obviously, the measures proposed by the author to improve the provisions of domestic environmental legislation are not a panacea. The fact is that many point problems require independent doctrinal research using the accumulated theoretical and empirical experience, while the presented conclusions are applicable to the category of "global" issues of improving the mechanisms of criminal legal protection of environmental legal relations.

4 Discussion

Considering the problems of attributive and substantive characteristics of the phenomenon of environmental crime, it is advisable to pay attention to legislative and doctrinal approaches to determining the essential content of the definition. Unfortunately, the provisions of domestic criminal legislation do not contain a legal definition of environmental crime, instead, the national legislator uses a universal definition - crime. According to the provisions of Article 14 of the Criminal Code of the Russian Federation [3] (hereinafter - the Criminal Code), a crime is understood as a culpably committed socially dangerous act prohibited by criminal law under the threat of punishment. Applied to the sphere of environmental legal relations, the category under study is perceived as an act encroaching on the sphere of environmental and environmental legal relations. The social danger of such a crime is conditioned by the imperative enshrined in the provisions of the Constitution of the Russian Federation [4], according to which every person has the right to a favorable environment.

As guarantees ensuring the realization of this right, the legal doctrine refers to the system of administrative and criminal legislation, which provide responsibility for committing acts that infringe on the environment.

The provisions of modern criminal legislation contain a separate chapter that unites types of environmental crimes. As the reasons for the systematization and classification of environmental crimes, the legal doctrine calls:

- modernization of the basis of criminal legislation, application of the approach to differentiation of crimes depending on the object of criminal encroachment;
- steady growth of quantitative and qualitative indicators of crimes in the segment under study, which predetermines the need to integrate special elements of environmental crimes into the provisions of the criminal law with stricter punishment;
- involvement of the state in international activities to combat environmental pollution and the adoption of a number of conceptual normative-legal documents.

Analysis of the system of normative-legal sources shows that today there are more than 300 international agreements and treaties, the main purpose of which is to ensure environmental safety. The existence of such legal documents is conditioned by universal environmental protection.

Speaking about the national legal system, it should be noted that today, in practical activity, the provisions of about 800 normative-legal documents are used, which to a greater or lesser extent affect environmental legal relations.

Despite the multitude of legal documents, the state of environmental protection, as mentioned earlier, is unsatisfactory, especially in large cities and industrial centers. As the root causes of this state of affairs, theorists name the superiority of outdated technological processes in economic activity, which lead to serious pollution.

In legal doctrine, environmental crimes are differentiated into the following types [5]:

- encroaching on the integrity of nature;
- encroaching on the preservation of subsurface resources;
- encroaching on the integrity of flora and fauna.

There are other classifications of environmental crimes depending on the object of criminal encroachment, subject, signs of the objective and subjective side of the crime.

Undoubtedly, each of the classifications given in the provisions of legal doctrine has the right to life, as their diversity allows to develop more perfect mechanisms of legal regulation in applied aspects.

However, this diversity of approaches to the definition of the fundamental concept underlying the phenomenon of environmental crime has a downside. Thus, the ambiguity of interpretations, the lack of a legal concept can lead to different interpretations of the

elements of a crime, which ultimately deprives the law enforcer of the opportunity to form a uniform legal practice [6].

The domestic legislator should pay attention to the mechanisms of criminal-legal protection of the environment in foreign countries. Also, to pay attention to the issues of classification of environmental crimes in the near and far abroad. Undoubtedly, this will allow to develop new criteria for differentiation of criminal acts encroaching on environmental legal relations.

However, it is not necessary to speak about direct integration of components of foreign legislations in the sphere of criminal legal protection of environmental legal relations. In many respects, it can harm the domestic legal system, because of the different legal systems prevailing in different states.

Integration of empirical and theoretical experience should be step-by-step, involving the adaptation of legal mechanisms that "came from outside" under the framework of domestic legal reality, taking into account the socio-economic and spiritual and moral formations in society and the state.

Undoubtedly, the accumulated empirical and theoretical experience of legislative construction of environmental legislation will be very useful for the domestic legal reality, but its integration into the national legal matter still needs to be adapted. This situation is due to the fact that the integration of international experience of states with a decentralized legal system has properties of a slightly different normative-legal coloring, which go against the national legal system and established traditions that exist in society and states. In this regard, the domestic legislator needs to take a number of point measures to modernize the normative-legal sources in the field of regulation of environmental legal relations, taking into account the genesis of the national legal system, including its features and properties. Such an approach to solving the problems stated in the study in the foreseeable future will allow to solve a very wide range of problems of theoretical and practical nature.

5 Conclusions

Enhancement of the foundations of criminal legislation in the field of environmental protection is one of the key directions of legislative and state construction. The definition of clear boundaries of the fundamental categories that make up the system of environmental crimes will make it possible to develop clear criteria embodying objective and subjective attributes of environmental crimes, which will ultimately contribute to the formation of uniform law enforcement practice.

It should be noted that the current state of environmental legislation is assessed very ambiguously by representatives of legal doctrine. The dispersion of legal norms in normative-legal acts of differentiated legal force causes the emergence of a number of acute theoretical problems, which are rapidly moving to the applied plane. In particular, such a construction of modern environmental legislation leads to difficulties in its application in objective reality. At the same time, this state of affairs determines the presence of many inaccuracies in the description of legal categories and phenomena placed in the plane of environmental legal relations.

Summarizing the aforesaid, we note that the domestic legislator needs to pay special attention to the issues of legislative and state construction in relation to the sphere of legal protection of the environment.

In the foreseeable future, it is extremely necessary to develop a strategy aimed at codifying the norms of environmental law through the creation of a unified regulatory legal document.

The author of the publication is convinced that the codification of environmental legislation will serve as a foundation for further activities to resolve applied problems by introducing point changes in the provisions of the already codified legal document.

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