

# Principles of environmental law in Russia

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**Abstract.** The article analyzes the provisions of domestic normative-legal base and legal doctrine on the content and meaning of the principles of modern environmental law of Russia. The author's opinions and approaches to the doctrinal categories under consideration are studied, theoretical problems on the stated subject, and algorithms for their resolution in the foreseeable future are presented. The main purpose of the research is to accumulate the gained theoretical and empirical experience on the problems of formation of the system of principles of modern environmental law, to identify problematic issues and to develop measures to resolve them in the foreseeable future. The author analyzed the opinions and approaches of domestic and foreign authors, which made it possible to form a reasonable position on the stated subject. Theoretical significance of the research results consists in the possibility of their use in the course of further scientific developments on the issues of improving the system of principles of environmental law. Practical significance of the research results consists in the possibility of their use in legislative activities and in the development of educational and methodological literature on legal disciplines.

## 1 Introduction

The analysis of the provisions of modern legal doctrine allows one to state the insufficient scientific development of the category of principles of environmental law. According to the authors, the stated problematic is determined by the peculiarities of formation and development of the branch of environmental law. The fact is that the investigated branch of national law is a novelty of the domestic legal system, its theoretical and applied foundations in the modern version have been formed relatively recently, in this regard, there is an insufficient doctrinal study of its substantive characteristics.

Principles of law are conceptual and guiding principles and ideas that are the basis of the branch of law. Their content inspires the filling of legal norms, concentrated within a particular branch of law. It is well known that legal principles serve as a key vector of further development of the branch of law as a whole. Consequently, their study seems relevant in relation to the "young" branches of national law, which is environmental law.

Thus, the significance of this study is conditioned by the need to accumulate the accumulated theoretical experience, which allows to further develop the optimal trajectory

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of development of environmental law through the prism of its fundamental ideas and guidelines.

## 2 Methods

During the preparation of this study, the author used a very wide range of scientific research methods, including general scientific, particular scientific and special methods.

In particular, the methods of analysis, synthesis, induction, deduction, historical-legal, systemic, as well as modern methods of cybernetic research related to the use of Big-Data technologies were actively used.

The list of methods presented allowed the author to formulate valid outcomes of the research.

## 3 Results

The principles of modern environmental law form a complex system consisting of general legal, sectoral and inter-sectoral principles. Each of these groups of principles of environmental law is concentrated in various normative-legal documents, starting from the provisions of the supreme legislative act and up to sectoral federal laws.

For the most part, the principles of environmental law have a similar construction to similar categories placed in the branches of administrative, civil and criminal law. This is especially true for the group of inter-branch principles of environmental law.

However, the filling of principles of environmental law despite their identical designation with the same categories in other branches of law is largely differentiated, because the design and coloring of the phenomenon under study is in a deterministic relationship with the subject of legal regulation of modern environmental law.

Special attention should be paid to the mechanisms of "point" integration of foreign experience in the formation of the system of principles of environmental law. Undoubtedly, "full" integration of such experience can have a destructive effect on the domestic legal activity, since the legal principles, as well as other provisions of the domestic legal framework, are formed in the conditions of correlative connection with the prevailing in society and the state socio-economic, spiritual and moral formations. The situation is similar in other states. Therefore, the above approach is inadmissible in the current reality. The domestic legislator should approach the issue of integration of foreign experience with the highest degree of responsibility and introduce relevant components into the provisions of domestic legal acts, provided that they are scientifically valid and socially useful.

## 4 Discussion

It is well known that the issues of studying the principles of law are the subject of many acute doctrinal discussions. The legal literature is characterized by the placement of these topics in the category of demanded and topical. This state of affairs is due to the fact that the principles of law with their content epitomize global processes occurring in society and the state [1, 2].

The principles of law with their content determine the coloring of a particular branch of legislation, together with this serve as its basis for establishing the normative-legal status of the subject of social relations, and also act as a solid foundation of law enforcement, being a separate link between law and the ideologies, political and economic ways of life prevailing in society and the state [3, 4].

The axiological basis of the principles of law consists in the fact that they are not only the initial principles of a particular branch of law, but also act as one of the key properties that determine the nature of the implementation of legal norms in objective reality. The content of the principles of law influences the consciousness of subjects of social relations, predetermining the probabilistic nature of their behavior in various situations. In this case, the author believes that the content of the principle of law allows the participant of social relations in the conditions of legal gap to determine the vector of further behavior on the basis of the content of the principles of law, the content of which is determined by the provisions of legislative acts.

Modern legal doctrine is characterized by the classification of principles of law into certain types and subspecies. Thus, legal science distinguishes general legal, branch and interbranch principles. The first are peculiar to the law as a whole, the second are characteristic of a specific branch of law, the third - belong to a group of similar or related branches of law.

With regard to the sphere of environmental law to the group of general legal principles in legal science include the principle of democracy. The meaning and content of which can be revealed through the prism of the provisions of the Federal Law "On Environmental Expertise" [5]. In particular, we are talking about the fact that the main public environmental expertise is the mandatory participation of public organizations, the activities of which should be transparent and aimed at achieving socially useful goals and objectives. At the same time, the mentioned normative-legal act establishes that the production of public environmental expertise is carried out at the initiative of citizens, public organizations and local self-government bodies.

To the general branch principles of environmental law in the legal doctrine it is accepted to include [6, 7]:

- The principle of separation of powers;
- the principle of priority of rights and freedoms;
- principle of legality;
- principle of publicity.

A more extensive group of principles of environmental law is formed by sectoral principles, which are concentrated in the norms of legislation on environmental protection. These include:

- The principle of independence of control activities in the field of natural resources and environmental protection;
- the principle of presumption of environmental danger of planned economic activities;
- the principle of payment for the use of natural resources;
- the principle of rational use of natural resources;
- the principle of ensuring adequate human living conditions;
- the principle of scientific validity of economic interests in the use of natural resources;
- the principle of ensuring the human right to a favorable environment.

Let us analyze the content of some of the above principles of environmental law.

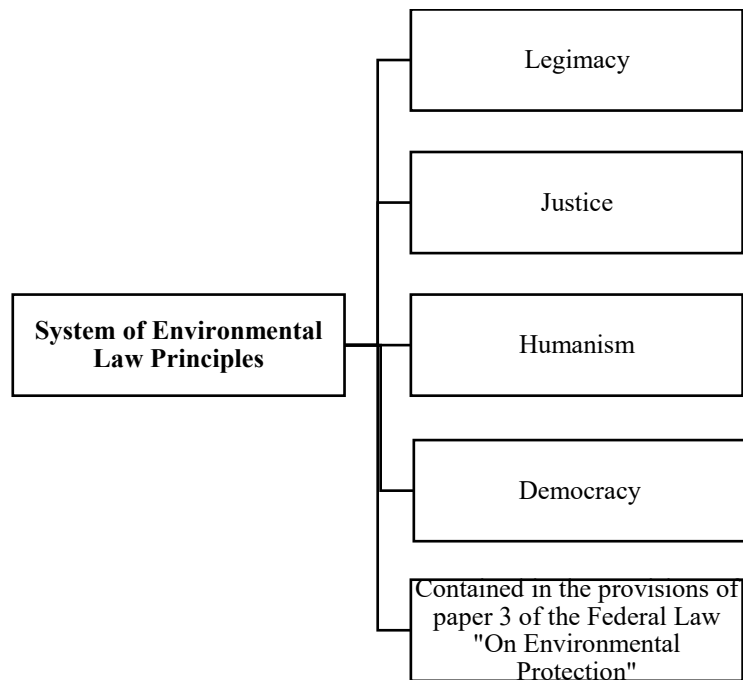
The principle of ensuring the human right to a favorable environment has its origin in the provisions of the Constitution of the Russian Federation. Thus, according to the provisions of Article 42 of the above normative-legal document, every person and citizen has the right to a favorable environment, as well as to receive truthful information about its condition. Public authorities represented by officials are obliged to provide citizens with relevant information. Compensation of damage as a result of committing offenses and crimes in the sphere of environmental legal relations is carried out through the application of the norms of civil legislation [8].

The principle of scientific validity of economic interests in the issues of natural resources use consists in the fact that any activity, not prohibited by the provisions of the domestic legal framework, should strive to minimize environmental damage.

When considering the question of the need to improve the system of principles of environmental law, it should be borne in mind that the principles of law, as fundamental and guiding principles that permeate the legal norms with their content, act as a socially useful reference point in the activities of normative-legal improvement. In this respect, their development is of particular importance for the construction of state law [9].

However, the internal and external coloring of legal norms is correlated with the socio-economic, spiritual and moral models prevailing in society and the state. In other words, their content is influenced by the genesis of society and the state [10, 11]. As an example, we can cite the models of Soviet and modern Russian legislation, where in the first case the legislator ignored the need for normative-legal consolidation of legal principles in the provisions of legislative acts, while modern legislation contains separate legal norms, referred to in legal doctrine as normative principles, which reflect the meaning and content of specific legal principles.

The modern model of environmental law includes the following legal principles (Figure 1) [12]:



**Fig. 1.** The System of Principles of Environmental Law (Doctrinal Approach).

In environmental doctrine, there are two main approaches to classifying the system of principles of environmental law. The chosen approach determines its scope. For example, the legislative classification includes legal principles established by the provisions of domestic environmental legislation, while the doctrinal approach includes principles developed by the provisions of environmental legal doctrine and domestic legislation.

Thus, the doctrinal approach is "broad" because it includes a greater variety of environmental legal principles.

In the opinion of the author of the publication, the axiological basis for the improvement of the principles of environmental law is unlimited, since the "failure" of the branch of law determines the need to revise doctrinal and legislative views on the issue of systematization of environmental legal regulations and their modernization in the foreseeable future.

Traditionally, the domestic legislator uses a single model of the system of principles in sectoral legislative acts, which is supplemented by individual features based on the needs and purpose of the branch of law. In this respect, there is an urgent need to intensify doctrinal attention to the problem of formation of the system of principles of modern environmental law.

Undoubtedly, the above-mentioned activity should take into account the foreign experience of building systems of environmental legislation, as the integration of positive experience into the domestic legal reality will allow to avoid a number of problems that have arisen earlier in certain states [13].

However, it is not possible to "simply copy" such experience into the current reality. Integration of foreign experience should be carried out in a "manual" mode, affecting those aspects of environmental legislation that require priority transformation.

Such a specific approach to the integration of foreign experience into the domestic legal reality is determined by the existence of legal systems that differ in their external and internal characteristics, the genesis of which is also conditioned by the socio-economic and spiritual-moral formations prevailing in a given state.

Otherwise, the integration of foreign experience in this matter may have a destructive effect and cause a number of significant problems, which will lead to the state of environmental legislation to deteriorate [14].

Therefore, the author stresses the need to modernize the system of principles of domestic environmental legislation on the basis of doctrinal developments of recent decades and accumulated international experience in building models of perfect environmental legislation.

## 5 Conclusions

Summarizing the above, we note that the principles of modern environmental law are designed to have a regulatory impact on the participants of social relations. They are characterized by the allocation of one of the leading roles in the development of society and the state. Consequently, further study of this category still retains its relevance and relevance.

Thus, the need to improve the system of environmental legislation principles is a paramount step in the activities to improve the foundations of modern environmental law. Principles of law, being a socially useful reference point for the domestic legislator and combining complex provisions that permeate the content of environmental legal norms, contribute to the formation of positive legal practice [15]. Especially, if it concerns gaps in the law and conflicts that often arise in practical activity. The resolution of such situations should be carried out on the basis of conceptual ideas and guidelines concentrated in the norms-principles. In this regard, the urgent need to strengthen doctrinal developments on the stated subject becomes especially important.

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