

FEATURES OF RUSSIAN AND INTERNATIONAL LEGISLATION ON THE REGULATION OF SEA

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Abstract

The article considers the scientific and practical problems of legal regulation and improvement of the strategic planning system in the Russian Federation as one of the tools to ensure environmental safety, nature conservation, sustainable use and restoration of biological diversity.

Particular attention was paid to the analysis of the existing problems of implementing strategic environmental assessment in Russian legislation as one of the ways to identify factors that negatively affect the environment in the process of implementing a strategic initiative at the strategic planning stage. The likely consequences of the implementation of the strategic initiative and the development of effective mechanisms to prevent or minimize negative environmental consequences were also assessed.

The authors compare the experience of foreign countries and Russia in the legal solution of the national problems of introducing and implementing SEA, and also justify the need for applying SEA in relation to certain types of activities.

In conducting this study, the authors used comparative and analytical research methods.

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Keywords: SEA, International Environmental Law, European Environmental Law, environmental assessment, Russian legislation.

1 INTRODUCTION

For a long period of time in the world scientific community, discussions on large-scale environmental problems and the search for possible ways to solve them do not stop. The concern of scientists is associated with critical indicators of the level of anthropogenic pollution of environmental components - atmospheric air, groundwater and surface water, soils, as well as climatic changes, the speed of which largely depends on air pollution by greenhouse gases. All of the above problems are largely associated with an increase in the population of the Earth, and, as a consequence, the need to intensify production and agricultural processes.

At the same time, mankind has not developed universally recognized mechanisms for mutual control and subsequent responsibility for environmental damage at the international level. Moreover, at the national level, requirements that ensure an environmentally responsible attitude for ongoing projects are not always legislatively fixed.

One of the measures aimed at ensuring an environmentally responsible attitude to the planned activity may

be the creation at the national level of an effective system of strategic environmental assessment (SEA) in relation to strategic planning documents, the implementation of which can have an impact on the environment and the state of ecological diversity.

The introduction of the SEA institution at the national level requires improving the strategic planning system, taking into account the need to ensure environmental safety, conservation, sustainable use and restoration of biological diversity. At the same time, it is necessary to increase the role of civil society in protecting the environment and preserving biological diversity, including ensuring the participation of the population and stakeholders in the environmental assessment of strategic planning documents.

2 ECOLOGICAL BACKGROUND OF SEA IMPLEMENTATION IN RUSSIA

By the Decree of the President of the Russian Federation of April 19, 2017 No. 176 "On the Strategy for the Environmental Safety of the Russian Federation for the Period until 2025", the state of the environment in the territory of the Russian Federation, where a large part of the country's population, production capacities and the most productive agricultural lands are concentrated (makes up about 15 percent territory of the country), is assessed as unfavorable for environmental parameters. At the same time, the reduction of biological diversity is also a global environmental security challenge, which entails irreversible consequences for ecosystems, destroying their integrity. One of the mechanisms for ensuring environmental safety within the framework of the socio-economic development of the Russian Federation and its regions may be a strategic environmental assessment, which allows identifying at the strategic planning stage factors that negatively affect the environment as a result of a strategic initiative, assessing the possible consequences of a strategic initiative and develop effective mechanisms to prevent and minimize negative consequences. In this regard, the solution of issues related to environmental protection and environmental safety of the Russian Federation, it is necessary to carry out at the initial stages of planning the socio-economic development of the Russian Federation, constituent entities of the Russian Federation, municipalities.

However, while the system of state strategic planning in accordance with Federal Law of June 28, 2014 No. 172-ФЗ "On Strategic Planning in the Russian Federation" does not provide for strategic planning documents to take into account issues related to environmental protection and the rational use of its components.

Currently, strategic planning documents are being developed as part of goal setting, forecasting, planning and programming at the federal level, at the level of constituent entities of the Russian Federation and at the level of municipalities. Provides for strategic planning on a territorial and sectoral basis.

Obviously, in the absence of legal requirements establishing the implementation of strategic environmental assessment, the formation of an environmentally oriented economy is a very difficult task for any country.

The strategic documents of the Russian Federation have repeatedly noted the need to ensure environmental safety by introducing a mechanism for strategic environmental assessment of projects and development programs of the Russian Federation, macroregions, constituent entities of the Russian Federation, municipalities (Decree of the President of the Russian Federation of April 19, 2017 No. 176 "On the Strategy for Environmental Safety of the Russian Federation on period until 2025 ", Fundamentals of state policy in the field of environmental development of the Russian Federation for the period until 2030 of the year approved by the President of the Russian Federation on April 30, 2012, Order of the Government of the Russian Federation of November 22, 2008 No. 1734-r "On the Transport Strategy of the Russian Federation").

In particular, the Fundamentals of state policy in the field of environmental development of the Russian Federation for the period up to 2030, in clause 11 (c) stipulate that "in solving the problem of improving the regulatory framework for environmental protection and environmental safety, the following mechanisms are used: (.. .) the creation of a regulatory framework for the implementation and application of strategic environmental assessment in the adoption of plans and programs, the implementation of which may have an impact on the environment. "

The Decree of the Government of the Russian Federation of December 18, 2012 N 2423-r "On approval of the Action Plan for the implementation of the Fundamentals of the state policy in the field of environmental development of the Russian Federation for the period until 2030" provides for the preparation of a draft Federal law on ratification of the UN Economic Commission for Europe Convention on Assessment environmental impacts in a transboundary context and the Protocol on Strategic Environmental Assessment to this Convention. Subsequently, the Plan of main events for the "Year of Ecology" in the Russian Federation in 2017 also envisaged improvement of legislation in terms of environmental impact assessment,

environmental impact assessment and the introduction of strategic environmental assessment (paragraph 55 of the Plan, approved by order of the Government of the Russian Federation of 02.06. 2016 N 1082-p).

However, to date, legal requirements aimed at introducing SEA have not appeared in Russian law. The Russian experience in conducting SEA in accordance with the principles of the Protocol on SEA is so far limited to several pilot projects at the regional and municipal levels implemented in Tomsk, Vologda, Kemerovo regions, the Republic of Tatarstan, and the Trans-Baikal Territory.

Moreover, as a result of the implementation of pilot projects, important precedents have been created that allow accumulating national experience and contributing to the development of a regulatory legal framework (taking into account Russian realities) of introducing SEA as one of the mechanisms of public administration in the field of environmental protection and rational nature management.

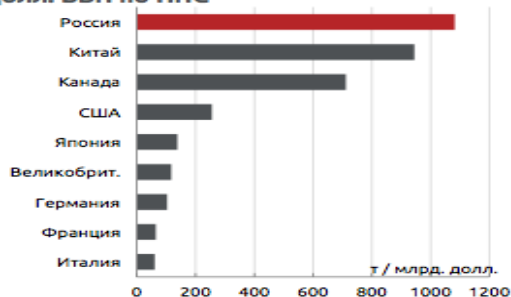
Sharing concerns about air quality as one of the main criteria for assessing the negative impact on the environment and public health, the Institute for Integrated Strategic Studies (ICSI), based on studies reflected in the report of the Organization for Economic Cooperation and Development (OECD) "Green Growth Indicators 2017", conducted analysis of the environmental situation in Russia and abroad.

According to the conclusions of the study, the level of air pollution reaches a critically dangerous level, and most countries still do not adhere to the standards established by the World Health Organization on the density of fine particulate matter PM2.5.

To more clearly illustrate the complexity of the ecological situation, we can consider graphs that reflect the following indicators for individual countries of the world: the concentration of suspended particles PM2.5 in selected countries of the world, the number of deaths from pollution by suspended particles PM2.5 and ozone (O3), emissions of sulfur dioxide (SO₂), carbon monoxide (CO) emissions.

The presented charts were published in the following sources: OECD, IMF, Rosstat, Statista.

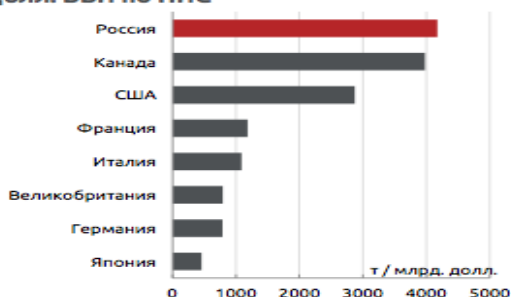
Рис. 3. Выбросы диоксида серы (SO₂) по отдельным странам мира, тонн на 1 млрд. долл. ВВП по ППС*



*Для России данные представлены за 2016 г., для Китая – за 2015 г., по остальным странам – за 2014 г.

Источник: ОЭСР, МВФ, Росстат, Statista

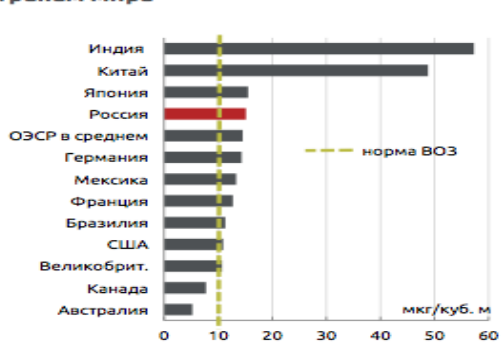
Рис. 4. Выбросы оксида углерода (CO) по отдельным странам мира, тонн на 1 млрд. долл. ВВП по ППС**



**Для России данные представлены за 2016 г., по остальным странам – за 2014 г.

Источник: ОЭСР, МВФ, Росстат

Рис. 1. Концентрация взвешенных частиц PM2.5 в среднем в 2015 г. по отдельным странам мира



Источник: ОЭСР

Рис. 2. Число смертей от загрязнения взвешенными частицами PM2.5 и озоном (O₃) на 1 млн. чел. населения в 2015 г. по отдельным странам



Источник: ОЭСР

According to the Ministry of Natural Resources of Russia, the death rate due to air pollution reaches 140 thousand people (a high level of environmental pollution can be the cause of diseases such as coronary heart disease, stroke, cancer of the lungs, bronchi, trachea, chronic obstructive pulmonary disease, etc.)

The above data objectively show the need for organizational and regulatory measures to introduce advanced institutions aimed at a preliminary assessment of the consequences of the planned activity.

One of the measures aimed at improving the environmental situation at the international level was the adoption of the Protocol on Strategic Environmental Assessment (hereinafter - SEA) to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (1991), which was signed on May 21 2003 in Kiev.

Its main goal of SEA is to protect the environment and ensure sustainable development by integrating environmental issues into decision-making.

First of all, SEA is a tool for improving strategic actions. The SEA procedure should be started at an early stage of the project to identify possible alternatives and forms of project implementation. Therefore, we can distinguish the following conditions for SEA:

- Conducting a preliminary assessment at the stage of developing the task (early planning stage);
- Taking into account the results of the preliminary assessment of SEA in the decision-making process;
- development of alternative strategic options;
- Active involvement in the conduct of SEA of persons participating in the decision-making process to ensure the guaranteed consideration of conclusions and proposals based on the results of the procedure;
- Mandatory documentary recording of all steps taken, actions, decisions made, as well as conclusions and suggestions.

Secondly, SEA involves the participation of other interested parties in the decision-making process, as a rule, it is about public participation. This is necessary to address those issues that cover not only environmental issues and sustainable development, but also go beyond these boundaries.

Thirdly, when introducing SEA, the focus should be on key environmental issues and sustainable development. At the same time, the SEA plan does not imply such a detailed collection and analysis of data as Environmental Impact Assessment (EIA) because this can distract from focusing on key issues.

To date, the Russian Federation has not acceded to the Kiev Protocol. At the same time, the introduction of a strategic environmental impact assessment was envisaged back in 2002 in the Ecological Doctrine of the Russian Federation, approved by Order of the Government of the Russian Federation of August 31, 2002 N 1225-r.

At the same time, it should be noted that the institutes of state environmental impact assessment and environmental impact assessment (hereinafter - the EIA) are not an innovation of the Russian legal system, since they have been introduced into domestic practice for more than 40 years. It should be noted that over this period the list of objects of state environmental impact assessment established by the Federal Law "On Environmental Expertise" has significantly decreased, which has led to a decrease in the role of environmental impact assessment in solving environmental problems. Moreover, the legal regulation of the EIA is framework in nature and does not meet the existing realities.

In addition, there is no denying that there is a lack of understanding on the part of Russian business and the need for an SEA. In particular, this is due to the following factors:

- The existing opinion on the imposition of additional financial obligations on economic entities related to SEA;
- Lack or restriction of access to disparate statistical data at the level of the territorial planning unit, for the main problem sectors. This is due to the fragmentation of information stored in the national, regional and municipal statistical data collection systems, as well as in the environmental and health management bodies.

At the same time, limited public participation in assessing the environmental impact of the proposed economic activity should be noted. In this regard, widespread propaganda is necessary, including taking into account the best foreign practices, the mandatory SEA for its civilized implementation in the practice of rational use of natural resources, environmental protection, and modernization of industry and agriculture.

3 CONCLUSIONS

To date, about 40 countries and countries of the European Union have joined the Protocol on SEA, where the use of SEA in strategic planning is a prerequisite. Also, the active implementation of SEA as an environmental assessment procedure is carried out by the CIS countries, such as: Ukraine, Moldova, Belarus, Georgia, Armenia. A number of the above countries have already adopted relevant laws at the national level.

A feature of SEA is that the member states of the Directive 2001/42 / EU on SEA can implement international SEA standards into national legislation, taking into account their own environmental characteristics, as well as the specifics of their economic, social and political development. Moreover, it is assumed that SEA should not completely replace existing environmental assessment mechanisms, but should act as an additional mechanism.

Despite the fact that today the Russian Federation has not yet acceded to the Protocol on SEA, active work is underway, as evidenced by pilot projects for the introduction of SEA, as well as the mention of SEA in various development strategies of the country.

REFERENCE LIST

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