

LEGAL PROTECTION OF ATMOSPHERIC AIR: ROLE AND PLACE IN SUSTAINABLE DEVELOPMENT

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Abstract

The article deals with the legal regulation of air protection in the context of sustainable development and public health. The international legal instruments of sustainable development are analyzed. It also provides a brief overview of the mechanisms of sustainable development in Russia.

The author considers it necessary to ensure the use of monetization of environmental losses of the state as a basis for taking measures to reduce them.

Keywords: atmospheric air, sustainable development, public health, environmental damage, the harm from air pollution.

1. INTRODUCTION

The concept of sustainable development plays a dominant role in the development of international, primarily environmental, cooperation and law.

This concept involves the coordination of three equal components of the development of States - economic, social and environmental. Accordingly, economic and social progress should not be at the expense of destruction, pollution, environmental degradation or significant changes in the potential of natural resources. In turn, measures to protect the environment should not lead to a deterioration of the social and economic condition of the society. From the point of view of the law it is about the development and implementation of an ideal model of the world order, where man exists in harmony with nature, of a model of balanced and coordinated development of all branches of law, based on the sustainable development goal.

The rationale for creating such a model is the interests of present and future generations to have equal access to natural resources and natural benefits in the amount and quality necessary to meet their needs, and to have the right to economic and social development. The needs of people in the use of natural resources, in obtaining material and social benefits are set as a criterion for assessing the development of society, and their satisfaction is proclaimed a permanent goal.

2. THE ROLE AND PLACE OF AIR PROTECTION IN SUSTAINABLE DEVELOPMENT

2.1. International Principles of Sustainable Development

It should be noted that unregulated consumption of non-renewable natural resources of the present generation will undoubtedly jeopardize the ability to meet the needs of future generations in the use of natural resources. At the same time the legal principle of restriction of consumption of natural resources and goods in combination with restriction of production is entered into the international law, despite its disharmony with the principles of development based on a market economy.

In the outcome document of the 2012 UN Rio+20 Conference "The future we want" (UNGA resolution 66/288

of September 11, 2012) the creation of "sustainable production and consumption structures " is "an essential prerequisite for sustainable development". "Sustainable consumption and production" is proclaimed as a sustainable development goal in the outcome document of the 2015 UN Conference " Transforming our world: the 2030 agenda for sustainable development" (Resolution adopted by the General Assembly on 25 September 2015). There was also the question of who would be responsible for ensuring that the interests of future generations were respected and what legal mechanisms were needed.

The universal progressive principles and norms expressed in the UN Charter and other international legal acts are widely used in the regulation of international environmental relations. The development of cooperation in the field of environmental protection has led to the enrichment of international law with new principles enshrined in international environmental agreements and non-legally binding instruments. Most fully and succinctly presents the principles in the Declaration of the UN Conference on the Human Environment, the World Charter for Nature, Declaration of the UN Conference on Environment and Development. These principles form the philosophical basis of environmental protection in international relations.

World Conservation Union makes a significant contribution to the development of the principles of international environmental law and international environmental principles. The 1st world Congress on environmental law, held in Rio de Janeiro in April 2016, adopted the World Declaration on Environmental Rule of Law (27 - 29 April 2016: World Environmental Law Congress). This document demonstrates the emergence of a new vector in the development of environmental law, indicating a rather extraordinary approach to the definition of its content, the mechanisms of environmental protection and measures for the implementation of environmental legislation. Thus, the principles include not only the traditional duty of everyone to protect nature and the right to preserve nature and to a favourable environment, but also the right of nature itself to "exist, preserve and evolve". In this regard, the mechanism of restriction of the right of private property by imposing on owners the obligation to support the ecological functions of nature is fixed as a principle. It should be emphasized that the proclaimed principles are intended to serve as a conceptual basis for the development not only of international environmental law, but also of national legal systems governing environmental relations.

2.2. Consideration of Public Health in Assessing Environmental Damage

In the world, there is a clear tendency to increase the priority of preserving human health in solving problems of environmental pollution. The direction to include the health factor in the development of state environmental policy, the greening of the economy, the transition to sustainable development is becoming increasingly important in the processes of decision-making and the development of national strategies, programs and projects.

For example, the UK has developed approaches to monetize the cost of years of life lost due to exposure to air pollution, adjusted for quality of life (Chilton et al. 2004, Valuation of health benefits associated with reductions in air pollution). The influence of air pollution on the economy, indirectly calculated through the monetization of the decline in the working capacity of the population, is subjected to monetary evaluation (Ricardo-AEA 2014: Valuing the impacts of Air Quality on Productivity). This study took into account the statistics of diseases such as coronary heart disease, strokes, lung cancer, asthma, chronic bronchitis, diabetes. Similar methods are used by the European Union and Ireland (EEA 2014, Costs of air pollution from European Industrial facilities 2008-2012; EnvEcon 2015 Air Pollutant Marginal Damage Values. Guidebook for Ireland 2015, Dublin). In the United States, a model is used to measure the damage from air pollution, taking into account the loss of both health and various sectors of the national economy (Muller N., & Mendelsohn R. (2007), Measuring the damages of air pollution in the United States).

In Russia, the meeting of the State Council On environmental development of the Russian Federation for the benefit of future generations (December 27, 2016) was fundamentally important for strengthening the priority of taking into account the health factor in solving environmental problems. In fact, for the first time at the state level, the importance of economic losses of the state from the negative anthropogenic impact on the environment and, accordingly, the negative impact of environmental pollution on the health of the Russian population was established.

This fact was emphasized by the President of the Russian Federation at a meeting of the State Council: " In a number of areas, the load on nature has reached critical values. As a result, the annual economic damage reaches up to 6 percent of GDP, and taking into account the consequences for human health - up to 15 percent " (<http://kremlin.ru/events/president/news/53602>).

Given the current pace of economic development of the country and its regions, it becomes obvious the

need for fundamental changes in the ecological and economic model of society, the recognition of new priorities.

2.3. Russian Trends in the Legal Consolidation of the Principles of Sustainable Development

In Russia, the awareness of the need to ensure that not only economic but also environmental needs are met has led to the development of a sustainable development strategy (The Decree of the President of the Russian Federation dated 01.04.1996 № 440 "On the Concept of transition of the Russian Federation to sustainable development"; The Decree of the President of the Russian Federation dated 31.12.2015 № 683 "On the national security Strategy of the Russian Federation"; The Order of the Government of the Russian Federation dated 17.11.2008 № 1662-r "On the Concept of long-term socio-economic development of the Russian Federation until 2020»). It implies a long-term approach to the formation of economic relations. It is obvious that this is possible only in the case of ensuring stable reproduction of the natural resource base. Therefore, when assessing the processes of sustainable development, the impact of the economy on the environment should be considered first.

In accordance with the requirements of sustainable development, the economy must ensure, along with the material well-being of the country, the fullest satisfaction of human social needs in the long term. This implies a balanced reproduction of national capital, which includes physical, natural and human capital.

A distinctive feature of public relations in the field of environmental protection is their high degree of uncertainty. First, there is a lack of knowledge of ecosystem services. Another reason is the technological risks that arise in the conduct of economic activities. Technological processes at modern production facilities are extremely complex, undergo rapid changes, while the legislative aspect of technical regulation often lags behind.

The mechanisms for achieving sustainable environmental development, in turn, are the stimulation of energy saving and energy efficiency projects, the development of a system of specially protected natural areas, environmental education of the population, disclosure of environmental information and open data sets in the field of environmental protection, stimulation of economic entities to minimize the negative impact on the environment and others.

Due to the Forecast of social and economic development of the Russian Federation for the period up to 2036 the gradual transition to the rails of "green growth" is planned to be implemented through the implementation of a set of legislative and institutional measures to ensure the growth of energy efficiency and the development of renewable energy sources, the introduction of economic incentives to reduce emissions, discharges, waste generation and disposal.

The adoption in 2009 of the Energy Strategy of Russia for the period up to 2030 led to the dynamic development of energy law regulating social relations in the field of energy. Development of the regulatory legal framework in the field of state regulation, of energy saving and energy efficiency is carried out, including taking into account the tasks provided for by the State program of the Russian Federation "Energy Efficiency and energy development". It is necessary to note the continued active development of energy legislation in this direction (The Federal law of Russian Federation dated 23.11.2009 № 261-FZ on energy saving and about increase of energy efficiency and about modification of separate legal acts of the Russian Federation; The Federal law of Russian Federation dated 21.07.2011 № 256- FZ on safety of fuel and energy complex facilities; The Federal law of Russian Federation dated 27.07.2010 № 190- FZ on heat supply; The Federal law of Russian Federation dated 11.07.2011 № 190- FZ on radioactive waste management and amendments to certain legislative acts of the Russian Federation; The Federal law of Russian Federation dated 03.12.2011 № 382- FZ On the state information system of the fuel and energy complex).

According to the Principles of the state policy in the field of environmental development of the Russian Federation until 2030 the following mechanisms are used to solve the problem of ensuring environmentally oriented economic growth and the introduction of environmentally effective innovative technologies:

- Formation of an effective, competitive environmentally oriented model of economic development, ensuring its rational use and minimizing the negative impact on the environment;
- Introduction of innovative resource-saving, environmentally friendly and effective technologies on the basis of a single technological platform with the active participation of the state, the business community, organizations of science and education, public associations and non-profit organizations;

- taking into account absolute and specific indicators of efficiency of use of natural resources and energy, negative impact on the environment in the state regulation of environmental activities and planning of measures for environmental protection, as well as in assessing the efficiency of the economy as a whole and by industry.

2.4. Methodology of Environmental and Economic Assessment of the Planned Activity

In order to improve the efficiency of state policy in terms of reducing the negative impact on the air, it is advisable to pay special attention to the assessment of environmental and economic efficiency of projects.

To calculate the environmental and economic efficiency of the planned activities, taking into account the objectives of reducing emissions of pollutants into the air and reducing the negative impact on public health, it is proposed to use a cost-benefit analysis.

The review process includes a monetary assessment of the initial contribution and possible costs of the project and an assessment of the expected impact of the project. The evaluation process consists of several stages, during each of which the costs and benefits for different groups of the population are carefully assessed, the possible outcomes of the project are considered, which may entail additional losses or revenues.

At the same time it seems expedient to form regulatory and legal approaches to calculations of ecological and economic efficiency, taking into account that:

* Benefits include increased human well-being, including reduced morbidity.

* Expenses include expenses for compensatory measures associated with a decrease in the well-being of people, including additional health care costs, increase in labor productivity.

In addition, it should be understood that the state environmental policy should not hinder the desire of the entrepreneur to increase the profitability of the project, while in General the social benefits should exceed the social costs.

It is generally accepted that costs and benefits are considered within the jurisdiction of a particular state, but such approaches could be enshrined at the international regulatory level.

The methodology for determining the environmental and economic efficiency of environmental measures aimed at reducing emissions of pollutants into the air is focused precisely on achieving the objectives of sustainable development.

Due to various interests that arise in the implementation of each project, the divergence of interests of private investors and the public interest, including the interests of the population living in project-affected areas, through the analysis "cost-benefit", it is possible to evaluate the project from different perspectives and analyze all the social gains and losses from the sale of this project to determine not only private but also public significance from its implementation.

3. CONCLUSION

In all the above-mentioned foreign countries, damage calculation methodologies are used by public authorities and private organizations at the planning stage of large-scale projects. Given that damage to public health accounts for more than 90 per cent of the total negative effects caused by air pollution, it is clear that public health should be considered as one of the main indicators of sustainable development.

Summarizing the above, we note that in order to achieve the sustainable development goals of countries with different levels of income, it is advisable to form international approaches to assessing the harm from air pollution using an ecosystem approach that takes into account the harm, as well as the transboundary nature of air pollution, which can negatively affect the health of the population of neighboring countries.

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