

International Law norms effectiveness on the environmental protection in the Kyrgyz Republic

*Bolot Toktomyshevich Toktobaev*¹, *Saltanat Bolotovna Karabalaeva*^{2,*}, *Rustam Karimovich Ibragimov*²

¹Kyrgyz National University named after J. Balasagyn, Bishkek, Kyrgyzstan

²International University of Kyrgyzstan, Bishkek, Kyrgyzstan

Abstract. The article discusses relevant issues of the International Law norms effectiveness. It is noted that one of the problems of national legislation norms ineffectiveness is connected with the gaps or absence of norms in a specific area of law. The author emphasizes the importance of international instruments, especially those regulating mandatory compliance by the state. Attention is drawn to biodiversity and the continued measures taken to preserve our "green" planet as a top priority for every subject of International Law.

1 Introduction

One of the most important areas in International Law is International Environmental Law. This branch of law represents a set of international legal principles and norms regulating relations between subjects of International Law regarding the protection of the environment, rational use of natural resources, ensuring environmental safety, and observing environmental rights and interests of humans.

In connection with this, the environmental issues in Kyrgyzstan and the country's location on the path of the Great Silk Road are closely related, not so much to the territory, but to the issues of environmental and the Lake Issyk-Kul protection. The first human movements in our region are associated with the Great Silk Road, which was initially developed by merchants and traders to integrate Kyrgyzstan into the global economic market, primarily in trade. In the context of our article, Kyrgyzstan, as a transit country and a bridge connecting Eastern civilization with Europe, requires providing traders with environmentally clean food products, drinking water, and replenishing necessary supplies on caravan routes. The place for rest, where caravans stopped on the Lake Issyk-Kul shore to replenish food and water supplies, to provide care for the draught animals, is also of great importance.

Nowadays, the development of the Great Silk Road is being actualized, as the highway has been built along this route, which is functioning practically (Beijing-Kyrgyzstan; Torugart, Issyk-Kul-Kazakhstan-Russian Federation-Europe). It is supposed that in future, a railway will be built along the Great Silk Road, and an agreement has already been signed between China, Kyrgyzstan, Kazakhstan, and Russia.

2 Method

* Corresponding author: Sbk8585@mail.ru

The methodological basis of the study was made up of international legal acts, domestic law, fundamental works of domestic and foreign authors, lying at the intersection of the theory of state and law, constitutional law, history of state and law, political science, economics, philosophy, sociology, etc.

The methodological basis of the study was made up of international normative legal acts, National Law, domestic and foreign authors fundamental works at the intersection of State and Law Theory, Constitutional Law, History of State and Law, Political Science, Economics, Philosophy, Sociology, etc. In this regard, works on various environmental problems of Kyrgyzstan and legal regulation of the regime for the Lake Issyk-Kul protecting is the methodological basis for scientific research. At the same time, the normative legal framework is not systematized. In our opinion, it should be unified into a single regulatory acts complex on the environmental and the Lake Issyk-Kul protection problems, which would enable the legal mechanism to function effectively. The same applies to the state bodies responsible for the Lake Issyk-Kul protecting. The absence of appropriate coordination makes this activity largely formal. It would be necessary to divide the zones of environmental object protection, including logistics, regulation of the Issyk-Kul protection natural complex, land, flora and fauna, and the lake protection itself as a valuable asset of Kyrgyzstan, into regulatory segments.

3 Results

Regarding the international cooperation of the Kyrgyz Republic in the field of the environmental protection, it is aimed at ensuring sustainable development of the country and successful resolution of the environmental issues. The priority areas in the field of international nature conservation activity are:

- access to the main international conventions on the environment and their practical application;
- joining the main international environmental conventions and fulfilling the obligations assumed under them;
- integration of international principles into national legislation;
- attraction of international technical and financial assistance to solve national and global environmental problems;
- development of cooperation with foreign and international organizations for the implementation of clean technologies;
- development of cooperation with neighboring countries on transboundary environmental issues.

The first steps of international environmental cooperation of the Kyrgyz Republic began in 1992 with its accession to the United Nations. Kyrgyzstan has also become a member of a number of international organizations in the field of environmental protection, such as the United Nations Environment Program (UNEP), the United Nations Development Program (UNDP), the World Meteorological Organization (WMO), the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Then, the ratification of important international acts by the Kyrgyz Republic, such as: the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989; the Vienna Convention for the Protection of the Ozone Layer of 22 March 1985; the Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa of 17 June 1994; the Convention on Wetlands of International Importance Especially as Waterfowl Habitat of 2 February 1971; the Convention on International Trade in Endangered Species of Wild Fauna and Flora of 3 March 1973; the Convention Concerning the Protection of the World Cultural and Natural

Heritage of 23 November 1972; the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 followed; the Convention on Long-range Transboundary Air Pollution of 13 November 1979; the Convention on Biological Diversity of 5 June 1992; the 1979 Convention on Long-range Transboundary Air Pollution; the United Nations Framework Convention on Climate Change of 9 May 1992; the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade of 10 September 1998; the Stockholm Convention on Persistent Organic Pollutants of 22 May 2001; the Montreal Protocol on Substances that Deplete the Ozone Layer of 1987; the Cartagena Protocol on Biosafety to the Convention on Biological Diversity of 22 February 1992; and the Kyoto Protocol to the United Nations Framework Convention on Climate Change of 11 December 1997 followed.

The Kyrgyz Republic is part of the global environmental activity process by being a party to 13 international environmental conventions and 3 protocols, on the one hand, and it is a full member of the world community on the other one.

4 Discussion

Extended discussion on the environmental issues occurs constantly. It served as an idea to systematize these problems and direct it into the right direction, as evidenced by the above-mentioned legal acts. In connection with this, "Pacta sunt servanda – agreements must be kept". It is one of the International Law theory postulates. This postulate should not be an exception for subjects of International Law in matters of the international environmental protection, including the Kyrgyz Republic.

V. Koester, analyzing agreements in the field of the environmental protection, points out that control over its compliance usually remains with the state [1]. We agree fully with V. Koester's opinion. In the global practice of the International Environmental Law norms development, this is mainly done through treaties. According to the United Nations Environment Program, there are currently over 300 registered multilateral agreements in the field of the environmental protection.

Nowadays, the contractual practice is characterized by the conclusion of general and special nature agreements. Most of them are regional agreements. Environmental problems specific solutions, as practice shows, are most successfully achieved at the regional level. For example, the OSCE Final Act contains common policy and legal approaches of European region countries to solving the environmental protection problems, primarily air and water pollution. Many agreements are concluded under the auspices of the United Nations Economic Commission for Europe (UNECE).

At present, the Kyrgyz Republic receives technical and financial assistance from developed countries, and has the opportunity to introduce new modern technologies into production and develop non-traditional forms of energy production. All international environmental conventions that are signed and/or ratified by Kyrgyzstan have a global character and great international significance.

The Kyrgyz Republic regularly cooperates with such international organizations as UNEP, UNDP, TESIS, World Bank, Asian Development Bank (ADB), UN Economic Commission for Europe (UNECE), European Bank for Reconstruction and Development (EBRD), World Health Organization (WHO), Organization for Economic Cooperation and Development (OECD), Organization for Security and Cooperation in Europe (OSCE), and Soros Foundation.

Kyrgyzstan is taking steps to fulfill its commitments to these organizations. The State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic is implementing some international projects related to the environmental protection. In accordance with the government's order dated January 15, 2006, No. 13, the State Agency is responsible for fulfilling these obligations and taking measures to implement them practically.

One of the problems of the national legislation inefficiency is related to gaps or the absence of norms in a particular branch of law. For example, there is no Environmental Code in the Kyrgyz Republic, which was adopted on January 15, 2009, after lengthy discussions in the Jogorku Kenesh of the Kyrgyz Republic. However, the President vetoed the legislative act, stating that certain provisions of the project require serious revision.

In its resolution, the Jogorku Kenesh of the Kyrgyz Republic agreed with the President's objections, but then forgot about the issue altogether. "The subject of regulation of the Environmental Code should be three interconnected groups of public relations: 1) in the field of the environmental protection; 2) in the field of ensuring human environmental safety; 3) in the field of protection, rational use and reproduction of natural resources" [2].

The adoption of the developed project of the Environmental Code would allow to systematize the legislation in the field of the environmental protection, the removal of discrepancies, duplication, inclusion of requirements of obligations under international treaties, and the exclusion of contradictions in the current legislation of the Kyrgyz Republic.

The Code introduces such concepts as ecological network, ecological audit, ecological insurance, and sets the size of the administrative fine for violation with flora and fauna objects. In addition, Article 161 of the Code provides for public ecological control.

It is fair to note that public ecological control is an important part of monitoring for the further preservation of the ecology of our country. The consideration and adoption of this project should be initiated again by the public and the deputies of the Jogorku Kenesh. The adoption of the regulatory act will allow for the further development of environmental legislation at the intersection of norms of international environmental law.

Let us turn to the international experience on new steps and possibilities for the environmental preservation and measures to reduce climate change.

"On December 12, 2015, in Paris, an agreement was signed by all 196 parties to the UN Framework Convention on Climate Change. Under this agreement, countries agreed to joint efforts to limit the increase in global average temperature to less than 2 degrees and, taking into account serious consequences, to strive for a figure of 1.5 degrees. President of the Kyrgyz Republic A. Sh. Atambayev took part in the 21st Conference on December 1, 2015. The head of the state noted that the negative consequences of climate change do not bypass our country. This is manifested by an increase in dry years, in the number of diseases of the population due to climate change" [4].

"Kyrgyzstan is particularly concerned about the rapid melting of mountain glaciers, which are the zone of freshwater formation in Central Asia. Therefore, our country is actively working to integrate climate change issues into strategic development programs of our country. For example, the National Sustainable Development Strategy includes issues of low-carbon and 'green' development, and the priority directions for adaptation to climate change have been adopted" [5].

It is necessary to continue actively the popularization and diversification of the environmental movement around the world, solving the problems of climate change and preserving the planet for future generations. For example, active propaganda for the preservation of our planet is carried out annually on International Mother Earth Day on April 22, which was proclaimed and first celebrated in the United States in 1970. For example, the global theme of 2016 was the naming of the earth "Trees for the Planet". Why trees specifically? Trees help fight with climate change by absorbing excess carbon dioxide from the atmosphere. In one year, an acre of mature trees can absorb the amount of carbon dioxide emitted by an average car driven for 42,000 km. Trees also absorb odors and gaseous pollutants such as nitrogen oxides, ammonia, sulfur dioxide, ozone, and trap their particles in their leaves and bark.

By planting certain trees species, we can compensate for the biodiversity reduction, connect habitats in different forest areas, and achieve long-term economic and ecological sustainability, as well as provide food, energy, and income.

5 Conclusion

Thus, it is worth noting that the measures taken to preserve our "green" planet are a top priority for every subject of International Law. Many environmental problems can only be solved through legal regulation of its protection and conservation, as well as relevant services scientists, specialists, the population of the region, leaders of industrial enterprises and recreational institutions joint efforts.

For example, there is currently no single regulatory act for the Lake Issyk-Kul protection, and existing norms for legal regulation and the lake protection are scattered and not systematized.

There are a number of legal problems in the ecology protection. These include an unbalanced eco-economic policy of the state, a lack of regulatory acts for the Lake Issyk-Kul protection at both the state and local levels, and a lack of real mechanisms for the environmental control.

Special regulatory legal acts are necessary for further ecology protection and conservation. The fundamental document in legal regulation for the Lake Issyk-Kul protection should be the "Law on the Lake Issyk-Kul Protection", and a series of laws and subordinate acts on this unique natural object protection and preservation should also be developed and adopted.

The legal society consciousness and culture regarding the environmental protection in Kyrgyzstan remains low, not only among tourists but also among the local population. It is evident that the acceptance of the Lake Issyk-Kul as a natural heritage and the attitude towards it as a priceless legacy is a manifestation of the state ecological function. The implementation of international legal norms and standards into national legislation will be a real factor in overcoming legal nihilism (especially among the local population).

Kyrgyzstan has ratified more than 13 nature conservation conventions and several protocols to them, most of which can directly affect the environment protection. However, the international norms, despite the fact that they are the part of legislation, are usually declarative and do not contain specific measures for the nature protection and preservation. Proper application of these norms requires the development of international legal norms at the state level. Inclusion the lake into the UNESCO World Heritage list, in terms of legal regulation and legal mechanism for the natural object's protection and preservation, is a necessary and important step for the Lake Issyk-Kul and Kyrgyzstan as a whole.

The World Heritage Convention will allow for the lake to become an object of international cooperation and development of tourism.

References

1. V. Koester. *Pacta sunt servanda*// Environ. Policy and Law-1996, № 2-3. P. 78–91.
2. K.K. Kerezbekov. Scientific article on the topic: "On the codification of environmental legislation of the Kyrgyz Republic". P.3.
3. [Online resource], Access mode – <https://catoday.org/centrasia>
4. [Online resource], Access mode – <https://akipress.org/>
5. Official website of the President of the Kyrgyz Republic [Online resource], Access mode – www.president.kg.
6. Environmental legislation of the Kyrgyz Republic of March 15, 2017, № 33-ZRK.

7. Convention on Biological Diversity. Ratified by the Kyrgyz Republic on September 3, 1996.
8. Convention on the Conservation of Migratory Species of Wild Animals. Ratified by the Kyrgyz Republic on July 20, 2001.
9. Convention on International Trade in Endangered Species of Wild Fauna and Flora. Ratified by the Kyrgyz Republic on August 28, 2002.
10. Convention to Combat Desertification. Ratified by the Kyrgyz Republic on August 22, 1997.
11. Convention on the Protection and Use of Transboundary Watercourses and International Lakes. Ratified by the Kyrgyz Republic on June 18, 2003.
12. Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Ratified by the Kyrgyz Republic on December 28, 2001.
13. V.K. Leontiev. Environmental Protection. M., 2000.
14. I.I Skripnikova. Nature Protection and Law. M., 2002.
15. Federal Law of the Russian Federation of January 10, 2002, № 7-FZ "On Environmental Protection".