Environmental responsibility as an element of legal culture of the population

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Abstract. The article is devoted to the dynamics of ideas about environmental responsibility on the example of approaches of domestic and foreign legislation, with the justification of allocation of this track as an independent type of legal responsibility. In the introduction the concept of environmental responsibility and the system of measures to ensure it are given. Emphasis is placed on the high level of public danger of crimes in the sphere of nature management and environmental protection. The constant interest of the scientific community in the formation of basic approaches in the considered area is noted. In the course of the description of materials and methods of research the conclusions are formulated that the normative provisions are largely formal in nature, not finding practical application. The main results of the research are presented in the article in the form of concrete proposals to improve the current domestic legislation by reforming the classification of environmental crimes, expanding the criminalization of acts of the relevant group. It is necessary to define clear criteria of differentiation between administrative, civil and criminal-legal prohibitions, which is important not only for law enforcement bodies, but also for the society as a whole. The methodological basis is shown by the objects of legal protection in the sphere of nature management, based on the principles of axiological, activity, historical and logical, comparative and systemic approaches. The methodological block reveals and substantiates the most effective means and ways of environmental safety protection, structures propaedeutic measures. Such forms as conferences are most actively used. Among the set of methods presented in the work the priority is given to design and modelling. The discussion formulates the reasons that prevent the strengthening of environmental safety, names the conditions for overcoming the population's detachment from the systemic counteraction to such violations.

1 Introduction

Historically, environmental protection in our country was governed by the norms of customary law. Thus, unauthorized logging and uncontrolled extermination of wild animals were not allowed. The "Russian Pravda" contained a number of norms for the protection of particularly valuable objects of this type, which were guided by economic considerations, namely in connection with their private ownership. It was civil liability by its legal nature.
Gradually, the range of objects of legal protection expanded, with the attribution of grasses, hunting grounds, fish. The amount of normative material grew considerably. It should be noted that the normative approaches were not characterized by consistency and universality. Gradually there was a tendency to systematization of protective measures with strengthening of the criminal-legal component. The legislator has criminalized some acts in this area, structuring the corresponding corpus delicti in a separate chapter of the Criminal Code.

Environmental crime has acquired a transnational character and has become one of the global dangers threatening the existence of civilization and humanity. This fact was rightly noted by the XI UN Congress (Cairo, 1995), whose decisions not only stated the danger of such acts, but also formulated the need for measures to prevent them.

Traditionally, the categories of "natural resource law" and "environmental law" are considered as a correlation of general and private. From the point of view of logic, this is justified, since chronologically, resources arise first, and then measures for their protection are required. This understanding is demonstrated in the criminal law doctrine by Y.S. Bogomyakov, R.Kh. Galakhova, G.G. Glistin, P.S. Dagel, E.N. Zhalinsky, E.N. Zhevlakov, I.B. Kalinin, E.G. Kletneva, V.D. Kurchenko, V.A. Lopatin, Y.I. Lyapunov, V.D. Pakutin, V.V. Petrov, P.F. Povelitsina, N.L. Romanova.

We share the approach of the authors who believe that environmental law has not yet reached the level of its allocation as an independent branch of law, as there is no unambiguous understanding of the subject, methods and principles. In essence, all of the above is borrowed from other branches of law, including administrative, criminal and civil [1-7]. At the same time, the legislation in the field under consideration is sufficiently developed, which allows it to be the basis for the development of tools for independent legal regulation of the protection of natural objects.

Most scientists adhere to the concept of environmental-legal mechanism, seeing in the accumulated normative material the signs of systematicity, not only of substantive, but also of procedural nature [8-13]. All this arsenal is actively used to solve the problems of environmental safety.

In Russia, the Year of Ecology (2017) was significant in this regard, which was accompanied by scientific and practical activities to optimize the fight against environmental crime. At the same time, official statistics do not show an increase in the rate of initiation of criminal proceedings for this type of abuse, indicates high figures of termination of criminal prosecution, difficulties in collecting evidence, significant investigation time. The sociological survey of 42 practitioners confirms the lack of specialized training of operational structures and investigative apparatus for detection, disclosure and investigation of environmental crimes. The overwhelming majority of respondents (89%) stated that they see no prospects for initiating criminal proceedings in cases of encroachment on natural objects. The reasons cited were labor-intensive procedural actions; the lack of methodology for investigating environmental crimes; the length of time it takes to conduct complex expert examinations; and the lack of persons with specialized knowledge in the relevant field, which eventually leads to the expiration of the statute of limitations for criminal liability. A negative trend has formed, when the fight against abuse in this area is carried out on a residual principle. It is most likely declared, but in fact it is not carried out.

The state realizes the importance of legal protection of environmental objects, which is confirmed by the constant updating of the regulatory framework [1]. However, there is still a gap between legislative regulation and its practical implementation. The situation is not improved by the alienation of the population from countering violations in this area. Crimes against life, health, property meet acute rejection of citizens, their condemnation,
and environmental encroachments seem not so noticeable and harmful, although the damage caused by them is many times higher and they affect everyone without exception.

In our opinion, one of the reasons for this situation is the lack of clear criteria for distinguishing administrative, civil-law violations from crimes. Law enforcers are constantly faced with such collisions, which hinders the effective fight against these abuses and does not allow to build a system of individual prevention. With regard to environmental crimes, it differs significantly from general approaches. In this case it is necessary to recommend measures to neutralize certain types of encroachments on objects of nature and to conduct propaedeutic work with persons potentially capable of committing relevant crimes.

We believe that the low percentage of detection of environmental abuse is due to the lack of proper control by the state; gaps in the current legislation; total public indifference to violations in this area and a high level of latency. Another factor is the excessive softness of sanctions in the constructions of environmental crimes. In our opinion, the judicial system underestimates the significance of such punishment as deprivation of the right to hold certain positions or engage in certain activities. Many perpetrators are capable to stop from committing encroachments on natural objects, because it is an economic sanction, which entails long-term financial losses for offenders.

It is advisable to continue legal education and training in the field of environmental safety [14]. It should begin at the level of school education. Information can be provided to students as part of the weekly lesson "Talking about important things". In addition, this information is part of the subject areas: "Geography", "Biology", "Chemistry", "Social Studies". State standards for the above disciplines must include information on environmental safety. For instance, in geography it is linked to specially protected areas - nature reserves, wildlife sanctuaries, national parks; preservation of the atmosphere and the world ocean; in biology it is about the protection of certain species of plants and animals; in chemistry - knowledge of substances that pollute the environment and pose a potential threat to it; in social studies - synthetic data on legal responsibility in the field of resource protection, the consequences of violations of legal prohibitions.

Further awareness of environmental safety occurs as part of continuing education at the college and high school levels. It seems to us that such information is within the subject area of all sorts of training programs. They should not be limited exclusively to law. At the same time, students oriented to legal specialties can become ambassadors of preventive work to prevent environmental violations. They can deliver lectures, conduct master classes, quizzes, which are important parts of the propaedeutic activity. It is advisable to show the danger of violations of environmental safety by means of concrete examples.

Education of the population in this area should not be a wave-like process, it is a continuous process that requires understanding of the importance of this work, focus on the result. These are not always momentary achievements. Undoubtedly, building the foundations of environmental legal culture is a long-term and stage-by-stage activity.

The causal complex of environmental crimes is connected with the economic crisis, the presence of sanctions, deformation of legal consciousness, widespread corruption, and a decline in morality. A certain role is played by the availability of natural resources, which creates the ground for the lack of their careful use [9]. A criminogenic factor is the continuing demand for illegally extracted components and the low degree of detection of such cases. The society should realize the need to counteract violations in this area, assisting law enforcement officers in the prompt detection and suppression of these encroachments.
2 Materials and methods

As noted in the introduction, the task of attributing the status of an independent branch of law to "environmental law" is currently being solved. To this end, it is necessary to define its subject, method and principles. Regarding the first - it is a wide layer of public relations that are directly related to measures to protect nature from various encroachments. By its legal nature, it will be a branch of public law where the main role is played by prohibitions established by the state. The central place in its system will be occupied by environmental crimes. They will not be removed from the criminal law, but will be included in the system of environmental protection measures.

Reference to the current criminal legislation demonstrates that the majority of environmental crimes are committed with a deliberate form of guilt. Negligence is seen only in one composition - destruction or damage to forest plantations when handling fire, but only when significant damage is caused. There is a group of acts with a double form of guilt, which implies the presence of both intent and negligence. It seems to us that still there is indirect intent, and carelessness is noted in relation to the consequences. Courts in sentencing on environmental crimes allow a formal assessment of the subjective side, which is inadmissible, because the main goals of punishment are not achieved. It is noteworthy that such underestimation is inherent not only in domestic approaches, but also in foreign ones. For instance, English-language publications say that despite the abundance of sources on environmental crimes, criminal procedural aspects have fallen out of scientific attention [11].

According to the criminal cases studied, the typical behavior of persons who commit such violations is confession. On the one hand, when these abuses are not obvious, it is often the only way to detect them. On the other hand, it casts doubt on the voluntariness of the confession and, moreover, indicates its absence if it is made after the suspect has been detained.

Russian criminal law doctrine considers only natural persons as the subject of liability. Meanwhile, environmental crimes can also be committed by legal entities. In Western countries, organizations are held criminally liable for this kind of abuse [5]. It is obvious that such an innovation requires radical change in the approaches of the domestic legislator, reforming the traditional system of crimes and punishments. The existing corpus delicti of environmental crimes are focused only on individuals. We believe that the introduction of criminal liability of legal entities is a matter of the foreseeable future, sanctions for them will be of a specific nature, with a clearly expressed economic component [10]. Most likely, they will be fines, but in a higher amount than for individuals, as well as a ban on full or for a certain period of time to engage in the type of activity that caused harm to natural objects [3]. It appears reasonable to us, since environmental crimes cause enormous damage, the size of which is often difficult to assess, its consequences may be of a remote nature, affecting the fate of future generations. Large territories are withdrawn from economic turnover for a long time, for instance, when they are affected by radiation.

Hence the understanding of the principles of environmental law. Undoubtedly, humanism is one of the fundamental views in the light of general democratic values. However, in modern conditions it cannot be interpreted unambiguously and is a rather conditional construction. Its manifestation in relation to a particular individual should be only in reasonable balance with the interests of other individuals, countries, civilization as a whole.

The experience of foreign countries shows that until recently they protected ecology by means of civil law norms. Cases of criminal prosecution were extremely rare, mainly related to punishment for environmental pollution. Western states deliberately avoided punitive aspects in assessing such violations [13]. However, recently there has been a
radical change of approaches towards the toughening of sanctions policy and criminalization of a number of encroachments, which used to be included in the civilistic block.

Thus, in the American precedents there is clearly visible toughening, which is associated with the transfer of a number of environmental offenses to the category of serious crimes. The perpetrators of these acts are sentenced to imprisonment for long terms. At the same time, in the situation with oil spills, civil liability is retained, which is imposed on the firm for negligent actions of its personnel. Obviously, this conflict does not contribute to the prevention of these abuses, which have become widespread.

In 2016, the UN and Interpol monitored the state of environmental protection and found that environmental crime has risen to the fourth place in terms of prevalence among the whole layer of illegal acts, and it was found that the amount of damage caused by it is correlated with billions of dollars of embezzlement.

Traditionally, in foreign countries, environmental violations include illegal trade in wildlife, unauthorized logging, and trade in hazardous waste. The government does not prioritize counteraction to these manifestations. Meanwhile, environmental crime is becoming transnational, which complicates the fight against it. Some authors see the way out of this situation in developing a panoramic view of crimes of this group, with an emphasis on the reorientation of state criminal policy, which should treat their suppression as a priority task [8].

It is advisable to establish a balance between environmental safety measures as such and their concretization at the level of different types of legal responsibility. It is necessary to focus the efforts of law enforcers, judicial system on ensuring compliance with the rule of law in environmental relations. There should be no exceptions to the established prohibitions. The inevitability of punishment for such abuses should be realized by all subjects.

The literature mentions the formation of a new interdisciplinary track, which is conditionally proposed to be called environmental criminology. The task of this segment of knowledge will be to reveal the causal concepts of the acts in question, with an emphasis on the determinants of the personality of the eco-criminal. In addition to criminology, it will utilize data from ecology and the emerging field of environmental law.

Environmental crime forms a complex set of offenses that harm the environment, human health as an integral part of it, and natural resources. In this regard, environmental safety is considered in a broad and narrow sense. In the first, it has to do with the sustainable development of states, the preservation of the population, the preservation of the existence of people as a biological species. In the second, it refers to the object of legal protection, including by criminal law means. Under this understanding, environmental crimes are usually classified by the objects of encroachment: on the environmental order; environmental safety of a particular state and international (global) environmental safety [4].

Damage from disturbances of the first group is often irreversible. In assessing the long-term deterioration of the natural environment, there is a diversity of opinions, ranging from a year to the impossibility of regeneration, when only natural processes can restore what has been lost, and these cannot be accelerated by human activity.

Like Vania Ceccato, we see one of the reasons for assessing environmental crimes as non-harmful is that their consequences do not always come quickly and obviously. The damage from them can be detected after the passage of time; there is a remote harm that will be felt by future generations [13]. There are no reasonable methods of calculating such damage, it in principle does not lend itself to the usual evaluation criteria. It is difficult to identify a specific victim of such acts. Material, physical and moral harm is caused, but to specific subjects - an indefinite circle of persons, descendants.
The difficulty of readjustment to the negative perception of this type of encroachments also lies in the fact that previously many of them were not considered crimes, representing legal forms of activity, traditional for the population of a certain conglomeration. Foreign literature mentions cases when inspectors of municipalities deliberately do not report the detection of violations in the field of environmental management, thus seeking to preserve the initiatives of entrepreneurs [13]. The very fact of illegality of such violations is not taken into account.

Mark A. Cohen literally as revolutionary evaluates the environmental ban of the American legislator on waste dumping in navigable waters, which actually for the first time introduced criminal liability in this country for environmental abuses. Meanwhile, it is noted in the literature that such offenses are investigated for years. It is difficult enough in practice to establish the true intentions of the perpetrator, so they limit themselves to the assessment of factual circumstances. In fact, this makes it possible to avoid responsibility for what was actually done. It is no longer possible to put up with this, environmental crime causes damage that is many times greater than the harm caused by traditional types of illegal acts, which requires to remove the stigma of them as harmless and non-priority for counteraction. The time has come to put the fight against them at the top of government priorities [4].

As a result, we came to the following conclusions.

1. Environmental responsibility as an independent type is not distinguished in the modern period, representing a subtype of legal responsibility for environmental offenses. Supporters of such understanding include in it administrative and civil misdemeanors, crimes. There is an opinion that such responsibility is not mounted with criminal law at all, representing a type of administrative law, since they have a single subject of regulation - a similar group of public relations. With such an approach, environmental responsibility refuses to be singled out. Objecting to such an assessment, we draw attention to the complex, intersectoral nature of the highlighted provisions, which indicates that there is the formation of environmental law as an independent branch, with all the markers peculiar to it.

2. We disagree with the representatives of the exclusively administrative direction in the protection of natural objects, we admit the presence in this segment and criminal-legal component. In our interpretation at the moment environmental liability has been formed as an autonomous synthetic institute of law, which includes two non-overlapping groups of norms: 1) civil and administrative; 2) criminal. The ongoing processes of criminalization accompany the transition from the first to the second category, and it is quite active.

3. We support the idea of recognition of legal entities as a subject of criminal liability for environmental crimes, which should be accompanied by reforming the system of unlawful acts and punishments for them. Priority in sanctions should be given to those of an economic nature. If we are talking about fines, their amount for organizations should be an order of magnitude higher than for individuals.

4. We share the view on the expediency of toughening penalties for environmental abuse, criminal law measures in this segment can take a special place, becoming a real regulator of compliance with the requirements of current legislation.

5. The need to fundamentally restructure the attitude of the population to such violations is at the top of the list. It should move from indifferent and indifferent assessment to stable non-acceptance and active condemnation, with support to law enforcement officers in promptly identifying each such case. Only the participation of civil society in counteracting environmental crimes will make it possible to overcome their latency.

6. Investigation of crimes of the group under consideration is temporarily costly and labor-intensive process. It requires the appointment and production of complex expert examinations with a long period of time. As a result, as practice shows, the statute of
limitations for bringing to criminal responsibility expires. The solution may be to change the category of environmental crimes to a more serious one, which, accordingly, will increase the statute of limitations.

7. Special training is required for successful operational support and effective investigation of this kind of crime, it should include in-depth knowledge of environmental safety.

8. It is advisable to create an electronic data bank in which to systematize all environmental violations by objects, victims, consequences. Obtaining such information will optimize the investigation, which will ensure compliance with procedural deadlines.

9. Criminalization of environmental violations continues, when some of them become crimes. Thus, the legislator responds to the high social danger of these acts and their mass distribution.

10. It is necessary to intensify preventive work with the general public, showing them by concrete examples what irreversible damage environmental crimes often cause, the remoteness of the coming consequences, affecting the fate of future generations. In reality, this is a type of abuse that harms each of us to some extent.

11. Attention should be paid to individual propaedeutics aimed at working with persons potentially capable of committing environmental crimes.

3 Results and discussion

Based on the data obtained, we came to the opinion that at this stage there is no need to adopt the Environmental Code, it is a task of more remote time. In case of its simultaneous existence with the Criminal Code, we will get unjustified parallelism, when the same norms will be placed in two codified acts with the same legal force. If the legislator goes the way of excluding this group of unlawful acts from the criminal law, they will in fact be decriminalized and will cease to be crimes. In fact, these violations will move to the rank of administrative offenses, which will inevitably weaken the level of struggle against them. There are no objective reasons for assessing these offenses as less socially dangerous. At the same time, if a special law appears, there is a danger that the population will not be aware of its existence. In essence, citizens will consider their actions legal without having any idea about their illegality.

We have conducted a sociological survey of students of Samara State University of Economics, who are not studying at law specialties (such a sample was made to exclude the error in the assessment of the results obtained). The age group of 17 - 20 years old (first - third year of full-time education) was formed for participation. Respondents (94%) named about five to eight violations of the law in the field of environmental protection, which, in their opinion, are environmental crimes. They noted special harmfulness in the pollution of the atmosphere, soil, water. It is obvious that in this segment the society is in solidarity with the legislator in the need to protect these natural objects by criminal law measures.

There are independent corpus delicti in the current criminal law regulating responsibility for pollution of water and marine environment. In this case, the respondents named the general type of prohibition without mentioning a special norm (87%). We believe that this is an indicator of the fact that in the minds of ordinary people these are synonymous concepts, the prohibition is realized, but there is no need for its separate formulation, it is artificial.

Students named illegal logging as an environmental crime (83%). However, only 4% showed awareness that there is a separate criminal-legal prohibition on damaging forest plantations. These figures show that there is no clear division of the above-mentioned acts; in the minds of the majority they represent the same thing, based on the common object of encroachment.
About 92% of respondents stated that illegal hunting is an environmental crime; 76% of respondents know about the criminal-legal prohibition of land spoilage. None of the students mentioned criminal liability for violation of veterinary rules. When clarified, they gave explanations that this is an administrative misdemeanor, which has insignificant social danger.

Many young people named bad faith of specialized organizations in the disposal of household and hazardous waste; disappearance of rare species of plants and animals listed in the Red Book of Russia as environmental violations of concern to them.

In general, we can state a low level of legal awareness of the population about real criminal prohibitions, as well as about giving some administrative offenses a higher degree of public danger than they actually have. In fact, the majority of respondents do not see the difference in administrative and criminal offenses, calling everything by the general term environmental offenses. The degree of public danger and severity of consequences was difficult for respondents to assess due to the fact that they did not have relevant information. 76% of respondents stated that they would like to participate in environmental master classes and quizzes, favoring the use of game moments for preventive purposes. 84% of students stated that they constantly participate in various environmental protection activities, including clean-up days, cleaning the university territory, the yard of their house and adjacent areas. 2% of respondents stated about participation in the volunteer movement to clean the water area of the Volga River and its tributaries from garbage and waste [6].

It seems to us that it is advisable to retain administrative prohibitions in the relevant codified act, and in case of repetition of misdemeanors (that is, the systemic nature of violations, provided that previously the appropriate measures were applied for them, which were ineffective), taking into account the severity of consequences - in the form of harm to life and health of people, death of plants and animals, causing material damage (with the criteria of significant, large and especially large) to establish criminal liability. According to the established legal tradition, with this approach, the first part of the paper of the criminal law formulates the basic composition, and then the qualified ones follow. Such formulations of dispositions are more understandable for law enforcers and familiar to professional lawyers.

The proposed model will allow to avoid conflicts between administrative and criminal law prohibitions, in time it will become the basis for the formation of an independent branch of environmental law and will allow to instill in society the correct assessment of such violations, coinciding with the official regulatory framework.

4 Conclusions

Finally, it should be noted that environmental responsibility is directly related to legal culture. The formation of the latter takes place within the framework of the axiological approach. These are systemic phenomena that cannot be considered in isolation. Only positive activity allows to build ecological thinking and consciousness in the right vector.

First of all, the most acceptable form of discussion in this area is scientific and practical conferences. At the level of reports and abstracts their participants show their approach to the independence of the branch of environmental law. There are two main approaches. Advocates of the first one believe that there is no need to assign the relevant provisions to the category of autonomous, they are organically included in the subject of traditional branches of law, civil, administrative, criminal. Representatives of the second are convinced that there is the formation of environmental law as an interbranch complex of special rules, which is indicated by a specific group of public relations forming the subject of regulation, the presence of a special method of their regulation, a system of principles, a special subject composition.
Secondly, environmental responsibility is also considered ambiguously. There is an opinion that it is a part of administration. However, according to this understanding, criminal law norms are excluded from it. At the same time, it is obvious that in some cases only they are able to ensure environmental safety. Supporters of another approach recognize the independent nature of this type of responsibility and emphasize its characteristics. However, they believe that it is necessary to specify its limits and reasons more clearly.

Thirdly, the regulatory framework is far from being unified. There are no clear criteria for distinguishing between administrative and criminal prohibitions in the considered sphere, due to the coincidence of objective signs of violations of the environmental complex.

Fourthly, the legal culture is based on a high level of awareness. The lack of awareness of the population about the basic regulations and specific legal prohibitions in the field of environmental safety is a proof of the unsatisfactory level of prevention. The solution lies not only in educational activities, but also in the development of civil society initiatives. Educational lectures do not bring effective results. It is advisable to use innovative formats. Video, game content, quizzes, tests, podcasts, environmental dictates at the federal and regional levels can optimize propaedeutics in the selected area. Preventive activities should include work with the population, especially young people, with involvement in volunteer movements, initiative activities to clean the territory from pollution. The media should highlight all these activities. Environmental crimes should not be covered up. Their detection, successful investigation and conviction should be reported immediately. Society should develop an attitude of intolerance to any encroachment on natural objects, awareness of the harmfulness of such actions. The level of legal culture in this sense should be raised to the level of acceptance and support of the established legal prohibitions [2]. Only in this case we can talk about the formation of ecoculture as an important part of environmental responsibility.

References

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