Some Problems of Implementation of Criminal Liability for Environmental Crimes

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Abstract. In fact, environmental crimes cause harm in two ways: environmental and economic. At the same time, the first is to cause real damage to fish, aquatic animals and plant stocks, calculated in monetary amounts, and the second - to cause damage to the environment. It is important to understand that all damage caused is subject to compensation from the guilty person. The amount of compensation for environmental damage is determined in accordance with established calculation methods.

1 Introduction

On today's day, after a long time of passive attitude towards the environment in Russia, regulatory legal measures are adopted that will help to implement Art. 42. The Constitution's 42 of the Constitution has been.

According to the fundamentals of state policy in the field of environmental development of the Russian Federation for the period up to 2030, approved by President of the Russian Federation on April 30, 2012, there is an increase in man-made destruction. All this affects all the ecology (atmosphere, hydrosphere, etc.). The reduction of biological diversity (1), including the reduction of biological diversity. This is included in the reduction.

Along with this, the document focuses on the fact that 40 regions of Russia are under the influence of atmospheric air pollution, and water bodies are not properly cleaned of wastewater.

The soil condition in all subjects of the country is deteriorating, affecting the fertility and quality of farmland. [2]

July 2, 2021 No. The Decree of the President of Russia, issued on July 2, 2021 no. was relatively recent. On the National Security Strategy of the Russian Federation 400 “On the National Security Strategy of the Russian Federation” also speaks about the negative factors produced by mankind in relation to the environment. In the past years, taking into account production and the growth of production, the destructive impact on the environment has increased. This is what changes the conditions of life on Earth.

In addition to that, this Strategy is also stated that the predatory attitude towards natural resources affects biological diversity, such as soil and water.
At all, environmental crimes (or in the terminology of an author, crimes against nature) have always caused great harm to all important and protected by criminal law protection values, from human life and health throughout the planet. During our lives, with the development of manufacturability throughout our lives, this harm is both potentially and actually growing. And what was not possible or nearly impossible yesterday (for example, they were made in relation to humans and wildlife), today, fortunately but also unfortunate, has become much more easy to implement; and benefit or harm will be caused depends on whose hands this tools are in.

2 Research Methodology

13 million people die every year due to environmental pollution [16]. In Russia, about 6% of all deaths occur due to an unfavorable environmental situation that affects the health of people living in a certain locality [2].

But at the same time, it should be noted that from the point of view of the application of criminal legislation aimed at ensuring environmental safety, there are a number of problems caused by both the imperfection of the technical and legal construction of the norms of Ch. 26 of the Criminal Code of the Russian Federation, and the problem of qualification and differentiation of crimes from related acts [4]:
- the latency of these socially dangerous acts;
- the development of ways to commit such acts, in connection with which the domestic legislator introduces appropriate changes to the norms of Ch. 26 of the Criminal Code of the Russian Federation.

3 Results and Discussions

Art. 253 of the Criminal Code of the Russian Federation does not contain any mention of the negative impact on the natural environment or its components does not change anything. Because all such activities are traumatic for her. When erecting artificial islands, etc., a person uses a lot of materials that are unusual for the natural environment in general or in a particular place; for this, powerful equipment is used that does not have a beneficial effect on the natural environment, etc. The artificial formations themselves cannot but change the habitat of living and non-living beings). The same can be said about the composition of Art. 255 of the Criminal Code. In the argument for the transfer of composition in Chap. 22 of the Criminal Code Therefore, the specified crimes in Ch. 26 of the Criminal Code is quite in place, and their transfer to another chapter is not justified.

So, in this scientific article, I would like to note several circumstances that characterize the problems of law enforcement of the norm of the Criminal Code of the Russian Federation in terms of protecting the environment from offenses.

Directly proceeding to the analysis of the problems of application of the norms of Ch. 26 of the Criminal Code of the Russian Federation, we emphasize that in terms of technical and legal design, they are largely blanket [14-15]. But even a reference to other regulatory legal acts in order to establish and prove the circumstances of the committed act and qualify it under the relevant article of Ch. 26 of the Criminal Code of the Russian Federation leads in most cases to the problem of interpreting the signs of a certain environmental crime and, accordingly, the problem of qualification [5].

At the same time, it should be pointed out that in the offenses of Ch. In the 26 Criminal Code of the Russian Federation, there are many special terms that do not belong to jurisprudence, but are important for protecting public relations in the field of environment safety. There are a large number of special terms that are not characteristic from
jurisprudence, but are important for protection and protection of public relations in the field of energy safety. It is possible to find out these, for example, “biological agents and toxins”, “epizootics”, etc. For example, in the criminal law, uniform interpretations of these terms are contained.

The fact that Yu.A does not understand, but it is the. Among the problems of law enforcement practice, Tymoshenko points out the problem of defining the above special terms in law enforcement practice. The scientific community is going on a discussion. Some scholars have argued that to find definitions, one should refer to special literature, for example: dictionaries. Second category of researchers thinks that it is necessary to disclose every reflected word in the rule of law with an effective normative interpretation.

A second approach is somewhat reasonable [13]. If, to a large extent, it would be more easy to clearly interpret these words and use the norms contained in them for law-enforcement practice.

A lot of such terms are included in the Criminal Code of Russia, so fixing all the reflected concepts will lead to an increase in the volume of the criminal law, as well as to causality. As such, definitions of terms should be written only if needed and are subject to some logic or rule.

The uniform application of certain norms, in particular Ch. According to the Resolution of The Plenum of the Supreme Court of Russia No. 18/2012, 26 is promoted by an article in the criminal code of the Russian Federation, that was introduced on the basis of the Code of Violations and Corruptions at the level of 26. The application by courts of legislation on liability for violations in the field of environmental protection and nature management is 21 “On the application by courts of legislation on liability for violations in the field of environmental protection and nature management”. 21.

But, focusing attention on a term that is special for jurisprudence and refer to the relevant special documents in its definition, we can find conflicts in criminal law science and criminal law. In Art. For example, in Art. Moreover, the concept of “biological agent”, “toxin” is included in 248 of the Criminal Code of the Russian Federation. The article 248 of the Criminal Code of the Russian Federation has such a concept as “chemical agent”, “. At the same time, biology does not have these words. But “pathogenic microorganism” or “pathogenic biological agent” is present in it.

By analyzing the articles of Ch. In addition, by analyzing the article of Ch. We can reveal that in Art. 26 of the Criminal Code of the Russian Federation, we can reveal this in Art. 260 of the Criminal Code of the Russian Federation "Illegally logging forests" indicates the sign “significant destruction”. The article is indicated by the words “illegal logging of forest plantations” and it has the meaning “significant damage”. In this case, there. The note to this article of the criminal law, “approved by the government of the Russian Federation to rates and methods exceeding five thousand rubles” is in Art. In it is not deciphered. The article 262 of the Criminal Code, “Violation of the regime for specially protected natural area and nature object” also has an indicating that such damage was caused by this violation, but it is not deciphered.A similar problem of delimitation of Art. 260 and 262 of the Criminal Code of the Russian Federation, arose, as Yu.A. Timoshenko, as a result of the abuse of the use of the abstract method of formulation by the legislator when constructing these norms [13].

In our opinion, it should be pointed out that one of the problems of criminal law is the presence in the compositions of certain consequences that occurred as a result of an act of a person [17-18]. But it should be noted that during the period of design and adoption of the Criminal Code of the Russian Federation, there were initiatives (based, among other things, on foreign experience) on the need to design the compositions of Ch. 26 of the Criminal Code of the Russian Federation on a formal basis, and not a material one [9].
For example, the Criminal Code of the Russian Federation in its article "Chapter 26" is fully reflecting this provision [10]. The Institute for Civil Engineering and Science of the Russian Academy of Sciences has compiled an application to completely understand this provision [10]. Although in the period of adoption of the criminal code of the Russian Federation, from an opinion of law enforcement and some law-enforcement agencies, this bill with the formal composition was not accepted.

It was because the threat of harm is not representing the social danger that legislators put into “crime” [12]. Accordingly, it is inappropriate to transfer the moment of Ch.’s end of the acts. 26.26 of the Criminal Code of Russia for an earlier period, 26 of the Criminal Code of Russian Federation for an earlier period. For an. It is also the sign of those consequences that have occurred and those that have not occurred that contributes to the distinction in crimes and criminal offenses.

This is noted that there is always, to some level or other, the problem of proving a committed action, and in fact it is laborious. The process for determining the danger of the consequences that have occurred is laborious. If consequences occur, the process of proving is simplified.

According to this, in a number of environmental crimes, consequences are reflected. In Art. For example, in Art. A section of the Criminal Code of the Russian Federation, in 249, the subject is dedicated to the violation of veterinary rules, that negligence entailed epizootics or other serious consequences. The article focuses on the violation of veterinary rules, which negligently entailed the spread of epizootics or other fatal consequences.

Among other things, Chapter 26 of the criminal code, in addition to its shortcomings due to an absence of experience in building such systems as criminal and environmental legislation, suffers from a number of shortcomings that can be attributed to his formulation by the legislator. First of all there are three shortcomings: 1) The formulation is not clearly expressed at violations with special requirements; 2) vagueness and (or) misunderstanding at the level of law about the subjective side of these crimes; 3) finally it is difficult to understand what kind of penalties will be imposed on them for violating special normes or punishments under this section. They do not reflect the dangers of environmental crime. And of course, the problem in science has been trying to solve all these problems for a long time, but discussions have not yet led to any results, and an individual position or one that most researchers will follow is not yet found. For example, the preparation of new criminal legislation has begun. But clarity is needed here in this case, since the preparation of new criminal legislation has begun.

4 Conclusions

If these consequences do not occur, the guilty person is liable under the Code of Administrative Offenses of the Russian Federation. But at the same time, the Russian legislator, when presenting criminal law and similar provisions in the Code of Administrative Offenses of the Russian Federation, as a rule, prescribes their delimitation from each other (for the correct qualification of the committed act by the guilty person) according to the element or sign of the composition of the environmental act.

However, when analyzing the Criminal Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation, we can unequivocally say that a clear delimitation is not present in all acts. So, it can be cited as a problem of differentiation between the Criminal Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation on the technical and legal design of Art. 257 of the criminal law of Russia and art. 8.38 of the Code of Administrative Offenses. After all, these norms reflect the same signs that characterize the commission of the acts reflected in them.
Thus, we can say that today there are a number of problems of criminal law protection of environmental legal relations, expressed, firstly, in the difficulties of using special terms in the technical and legal construction of norms. Secondly, there are in fact identical elements of crimes and offenses. As a result, it is rather problematic for the law enforcer to distinguish them from each other in the process of qualifying the act committed by the offender.

Thus, we propose to analyze the feasibility of introducing changes, in particular, to the norms of the Criminal Code of the Russian Federation regarding the use in them of those terms that are used, for example, in biology. It is also important to make a sufficiently detailed delimitation of related crimes and offenses reflected in the Code of Administrative Offenses of the Russian Federation.

References

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