

HARMONIZATION OF ENVIRONMENTAL LEGISLATION

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ABSTRACT

The relevance of the studied problem is caused by the necessity of assistance to favorable state of the environment and reasonable natural resources utilization that depend on a number of factors. So, the objective of the paper is not only study of the environmental legislative base, but also its interrelation in different countries. The key approach to study of this problem is concluded in finding the ways of harmonization and interconnection of environmental legislation in the world and in a particular country, because such cooperation allows sharing the experience with the developing countries in solution of environmental problems, thus supporting their environment and decreasing the impact on the world space.

Keywords: Harmonization of Environmental Legislation, Convention, Legislative Activities, Pollution of Environment, International Legal Documents.

INTRODUCTION

Particularly, the environmental legislation is the system of legislative and other legal acts including the legal standards regulating social relations in the sphere of environmental protection, rational utilization of natural resources, ensuring environmental safety of people and other objects (Julesz, 2011).

Problems of environmental quality, depletion of natural resources are increasingly becoming international. Today, the world community understands that without joint efforts to address these issues, further sustainable development is impossible. Consequently, the importance of international law in the field of environmental protection and the processes of convergence of national environmental laws of different countries is increasing and the environmental functions of international and intergovernmental associations are strengthening. States undertake to bring national legislation in line with international norms and implement them in the course of further activities.

Analysing the status and structure of environmental legislation in the EEA countries, two directions should be singled out: the first on the sources of law, the peculiarities of the law-making process and its results in selected countries of the EAEC, and the second on trends in the development of environmental legislation in the Union as a whole. In the field of environmental protection, the Agreement on Cooperation in the Sphere of Ecology and Environmental Protection, signed by the republics, is in force. In addition, it was decided to establish the Interstate Environmental Council. One of the most important forms of work is the creation of normative acts, which, to a certain extent, unify environmental legislation. The ecological

situation is gradually becoming an increasingly important factor of development, affecting all spheres of political and economic well-being of the state.

LITERATURE REVIEW

Having analyzed this issue we have detected that each country has different level of economic development, level of environmental pollution and environmental approaches to the solution of this problem. But they are all characterized by conservation of natural resources for the present and future generations (Lozhkin, Krutolapov, Onov & Komashinskiy, 2016; Malysheva, 1996).

In order to solve their environmental problems many developing countries have no necessary means, scientific potential, equipment and practical experience. So, one of the most influential factors is interrelation of the countries in the environmental issues and study of the issues of development of some or another country (Zhavoronkova and Agafonov, 2014).

In the works by Malysheva harmonization of the environmental legislation in Europe is studied (Malysheva, 1996). She also studies the aspects of responsibility for environmental pollutions which should be laid upon the 'polluter'. Krasnova studied the issues of environmental law of the USA (Krasnova, 1997; Krasnova, 1992), Sablin-the issues of environmental policy of China and India (Sablin, 2011). Walter Frenz wrote the guideline for the European law (Frenz, 1997).

In the modern period, research and assessment of the causes of the environmental crisis are of fundamental importance and can have a great impact on the process of improving legislation (Zhang, Zhao & Jiang & Shao, 2017). Annually increasing volumes of use of natural resources in Kazakhstan, which is typical for all countries with a raw material orientation of the economy, testify to the tendency of increasing over-exploitation of nature. The Government of the country does not take into account the warning of scientists about the need for consistent and systematic monitoring of the environmental consequences of the macroeconomic policy pursued (Julesz, 2011).

An analysis of the environmental situation and legislation at present can and should lead to a reassessment of the person's attitude to himself and nature, as well as the choice of directions for his development in the future (Chavan, Rao & Keerthika, 2015). The significance of such conclusions and assessments should be fully comparable to the results of environmental modelling presented to the world community by the founders of the Club of Rome half a century ago and determined the origin of environmental priorities in the policies and legislation of developed and many developing countries. At a new stage of development, environmental problems are not simply exacerbated, but, unfortunately, they have acquired a different quality.

MATERIALS AND METHODS

Generally speaking, the level of pollution of the atmospheric air, soil systems and other components depends on the level of the industrial development of the country. Growth of economic potential of the country leads to worsening of the environmental situation. As a rule, such countries have the applicable environmental legislation contributing to improvement of the environment. These countries cooperate with each other in the environmental issues, while the other countries adopt their experience for solution of their environmental issues (Julesz, 2011).

As seen from the above said the paper is based on the following methodology, including the methods of: Legal regulation, environmentalization, administrative and civil-legal method, and historical-legal and prognostic method.

At studying the problems of legal regulation we used the systemic approach, because the support of favorable state of the environment in many aspects depends on the existing legislation of the country and effective observance of these standards. Basing on the principle of environmentalization the paper considers the environmental approach to all the processes, because the ecology is tightly connected with the human life and influences all the structural components, from anthropogenic influence on the environment to the influence on the human health (Bakhrani, 2016).

Subsequently, the methodology of legal regulation includes the following groups of laws: legislation concerning the environment; legislation concerning the natural complexes; natural resources legislation (Malysheva, 1996).

RESULTS AND DISCUSSION

For substantiation of the theme we should elaborate that the constitution and other legislative acts provide different position to the environmental issues in each country. The constitution, in general, contains public declarations on the governmental concern about nature (Mukesh, Badal, Kamalvanshi & Pradeep, 2017).

The right for favorable environmental conditions is one of the fundamental subjective human rights and is usually stipulated by the recently adopted constitutions of the foreign states (Portuguese, 1976; Turkey, 1982; Brazil, 1988). This right is defined in different ways. Short characteristic of the environmental issues stipulated in the constitutions of different countries is provided in Table 1.

Country	Year of adoption	Characteristics of the Environmental Issues in the Constitution
Switzerland	1962	According to the Constitution the federal authorities are concerned about the landscape, natural objects and protect them.
Italy	1974	What it involves is only protection of nature
Holland	1952	According to Article 21 the government is concerned about the quality of life in the country, protection and improvement of the environment
Spain	1978	The Constitution declares that development of people requires their utilization of the environment
Republic of Kazakhstan	1995	The Constitution enounces that the goal of the state is protection of environment which should be favorable for life and health of people (Art. 31). But the environmental rights of the citizens are not declared. The Art. 6 state that the public property is the mineral resources, water, flora and fauna. While the land may also be in private property.
Ukraine	1996	The public property is the land, its mineral resources, atmospheric air, water and other natural resources of the continental shelf and the marine economic zone.

Notably, the Bhopal disaster in 1984 became the base for adoption by the USA of the Emergency Planning and Community Right-to-Know Act (1986). The result of the disaster was

4.5 thousand fatalities and 50 people suffered neurotically. This accident turned the attention of the USA government authorities to the lack of the law regulating preparedness to the accidents at chemical enterprises and providing the citizens with the information (Bakhrani, 2016).

One of the most important problems worth attention is a not comprehended need for protection of the environment and, as a rule, lack of the proper legal base. That's why in the Asian countries the environmental legislation began its formation much later than in Europe. However, the international cooperation and interrelation of the countries positively influences this situation and the unified system of the Asian legislation is forming using the example of the European countries and the USA (The PRC Law...; Frenz, 1997).

While in India this legislation is formed under the influence of the common law. The first act was adopted in 1927 and was titled "The Forestry Act" (Chavan, Rao & Keerthika, 2015). Alongside with the similar acts this one became the trigger for formation of the natural reservations for flora and fauna. But even now in India the environmental legislation keeps on developing (Law Concerning Biological Diversity, 2002; Law on the Rights for Forestry, 2006).

Having analysed the issue of the environmental legislation harmonization we have come to the conclusion that an important stage of the modern legislation base is organization of the governmental structures. These structures are divided into the consultative (advisory) and executive-administrative agencies (Table 2).

Table 2 GOVERNMENTAL STRUCTURES WORKING IN THE SPHERE OF ENVIRONMENTAL PROTECTION		
Government Authority	Country	Year of Adoption
Consultative (Advisory)		
Council on Environmental Quality	USA	1970
Royal Commission on Environmental Pollution	Great Britain	1970
Federal Department for the Environmental Protection	FRG	1974
Central Council of Control over Pollution	Japan	1974
Main Executive-Administrative Agencies		
Ministry for Environmental Affairs	Great Britain	1970
Ministry for Environmental Affairs and Life Quality	France	1978
Environmental Protection Agency	Japan	1971
Federal Ministry for Environment, Nuclear Safety and Preservation of Nature	FRG	

The responsibility for the environment is borne not only at the national level, but also at the lowest authorities' level as in case of Germany (Schmidt, 1994).

We suppose that harmonization of the legislation should take place not only between the countries, but also within one state. That's why new laws are being adopted on the basis of the already existing. For example, "The Law on National Policy in the Sphere of Environment" (1969) in the USA introduced the amendments into the system of the environmental safety regulation, though the initial task was creation of environmental policy (Erickson and King, 1999).

The existing situation in the environmental sector for the EAEU is one of the most acute topics. The preferential direction of the sustainable development policy for the Eurasian Economic Union is considered ensuring the well-being of the population living in Eurasia and integration of the environmental technologies, eco-friendly production, etc. The environmental

sector of security has undergone important changes. The positive dynamics is already seen in not only intentions, but in real actions focused on improvement of the quality of environment and health (Treaty on the Eurasian Economic Union, 2014; Zhavoronkova and Agafonov, 2014; Mukesh, 2017).

The agreement upon observance of standards of the environmental protection between Russia and the Republic of Kazakhstan was reached after signing of the Protocol on the Procedure of Activities of Enterprises and Organizations, Military Units and other Legal Entities in the Territory of Baikonur in the part regarding the issues of the environmental protection. That's why economic development is often connected with mass pollution of nature, depletion of natural resources, ecological disturbance, and change of climate that leads to human health problems and degradation of the natural environmental systems (Makhmale, Bhutada & Yadav, 2016).

We guess that in the conditions of negative impact on the human, the issues of environmental safety are an important component of the international forums. So, the UNESCO's Man and the Biosphere Programme (1970) are very important for people (UNESCO). At the United Nations Conference on the Human Environment (1972), in Stockholm 113 countries defined the goal in protection and improvement of environment for the present and future generations. Besides, at the UN Conference in Rio-de-Janeiro (1992) the participants developed the principles of sustainable environmental development and adopted two historic documents: Rio Declaration on Environment and Development and Agenda 21 (Zhang, Zhao, Jiang & Shao, 2017). The leaders of 179 the UN member-states called the governments of all the countries and citizens to introduction of the principles of sustainable development in the sphere of social, economic and environmental policy. According to the definition of the UN World Commission on Environment and Development (Brundtland Commission), sustainable development is kind of development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

The Concept of Environmental Safety in Kazakhstan is based upon the Strategy "Kazakhstan-2030". This strategy is developed with the consideration of Agenda 21 adopted in Rio-de-Janeiro (1992), as well as the results of the World Summit on Sustainable Development, held in Johannesburg, South Africa, in 2002 (President of the Republic of Kazakhstan, 1996; Shemshuchenko, 2010).

CONCLUSION

Having considered the issue of harmonization of environmental legislation the authors have found that the experience of some states in adoption of the laws touching upon the issues of environmental protection is closely connected with the adoption of the same laws by the other states. As a rule, it relates to the developing countries. Basing on the theoretical and practical fundamentals, the authors have analysed an important role of the legislative development within one state, because some legislative acts are based on the other contributing to improvement of the environment. The work also considers the issue on adoption of the constitution by different countries: the laws concerning the air basin, soil, biodiversity, etc.

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