

ANNOTATION

on the dissertation of Natalia Vladimirovna Shchitova, submitted for the degree of Candidate of Legal Sciences in the specialty 5.1.2. "Public Law (State Law) Sciences" on the topic "Administrative and Legal Mechanism for Ensuring Legality in the Field of Environmental Protection"

The active development of environmental legislation in the Russian Federation over the past few decades, driven by the constitutional recognition of the right to a favorable environment (Article 42 of the Constitution of the Russian Federation), as well as the strategic priorities of ensuring national security and achieving sustainable development goals, has led to improvements in the activities of public authorities in the field of environmental relations. Ensuring the rule of law in this area is a fundamental factor in ensuring the effectiveness of environmental measures taken by the state, and it contributes to increasing public trust in government and local self-government bodies as guarantors of the implementation of citizens' environmental rights. At the same time, the Environmental Security Strategy of the Russian Federation states that, despite the efforts being made, the state of the environment remains unsafe.

Official statistics confirm the severity of this problem. Thus, in 2024, Rosprirodnadzor, within the framework of state environmental control (supervision), recorded 38,968 violations of mandatory requirements, 2,453 cases of non-compliance with regulations, 2,648 cases of violations for which administrative offenses were initiated (of which 2,329 administrative penalties were imposed), as well as 4,432 administrative penalties. The results of prosecutorial supervision over the past five years show that an average of 298,000 violations of environmental legislation are detected annually, but only about 27,000 cases of administrative offenses are initiated by prosecutors (less than 10%), indicating a critical imbalance in the law enforcement system. The number of administrative offenses of an

environmental nature consistently exceeds the number of similar crimes by more than three times.

An analysis of law enforcement practice shows that judges and officials of executive authorities generally follow the provisions of the Code of Administrative Offenses of the Russian Federation, Federal Law No. 7-FZ of January 10, 2002, "On Environmental Protection," Federal Law No. 248-FZ of July 31, 2020, "On State Control (Supervision) and Municipal Control in the Russian Federation," and the explanations of the Plenum of the Supreme Court of the Russian Federation. However, the emerging problems of a law enforcement nature are primarily related to the design of the administrative and legal mechanism for ensuring legality, its elemental composition, as well as the shortcomings of the legal regulation of the interaction of regulatory authorities, conflicts in terminology ("environment" - "natural environment", "environmental control" – "environmental supervision"), contradictions in the regulation of waste management (licensing and exceptions) and procedural restrictions (prohibition of interaction during on-site inspection at the same time

In this regard, the relevance of the research topic is determined by the need for comprehensive institutional and procedural optimization of the administrative and legal mechanism for ensuring the rule of law in the field of environmental protection as a key element of the public administration system in the field of environmental safety.

Structurally, the dissertation includes an introduction, three chapters consisting of nine paragraphs, a conclusion, a bibliography, and appendices.

The introduction substantiates the relevance of the topic, formulates the goal and objectives, the object and subject, the degree of development of the problem, the theoretical and methodological foundations, the scientific novelty, the theoretical and practical significance, and the results of the approbation.

The first chapter is devoted to the theoretical and legal foundations of ensuring the rule of law in the field of environmental protection: it analyzes environmental protection as an object of legal regulation, examines the genesis of the domestic system of legal regulation, and reveals the content of the mechanism for legal support of environmental protection.

The second chapter provides a description of the administrative and legal mechanism for environmental protection, focusing on such aspects as the features and components of this mechanism, administrative liability, and the jurisdictional powers of executive authorities.

The third chapter explores the role of the control and supervision component of the mechanism under consideration, focusing on issues such as more effective organization of prosecutorial supervision, interaction between environmental control bodies and prosecutorial supervision, and the restoration of the municipal environmental control system.

In conclusion, the main conclusions and proposals are formulated. The appendices contain the developed model acts: the regulations on joint inspections, the agreement on cooperation between the regional (interdistrict) environmental prosecutor's office and the regional Ministry of Natural Resources and Ecology, and the regulations on municipal environmental control.

As a result of the dissertation research:

- the features of the forms of legal support for environmental protection have been identified;

- based on the study of the genesis of legal regulation of environmental protection, an analysis of the features of the modern domestic model of regulation has been presented, which allowed us to state its public-law orientation and the specificity that arises from it;

- the author's approach to the concept and structure of the administrative and legal mechanism of environmental protection has been presented, and its key features have been identified.

– the author's approach to the scope and content of the conceptual apparatus in the field under study ("legality in the field of environmental protection", "ensuring legality in the field of environmental protection", "environmental control", "environmental supervision") is presented;

– measures are proposed to ensure the proportionality and effectiveness of the applied measures of administrative responsibility in the field of environmental protection;

– the directions of development of the institution of environmental protection are substantiated

The essential characteristics of environmental protection as an object of legal regulation, which are discussed in the first chapter of the dissertation, have undergone significant evolution, moving from a narrow understanding of the protection of individual natural resources to a comprehensive approach to ensuring environmental safety and sustainable development. In the modern legal doctrine, the environment is defined not simply as a collection of natural components, but as a complex integrated system that includes natural ecosystems, natural-anthropogenic, and purely anthropogenic objects. This broad interpretation, enshrined in federal legislation, determines the specifics of administrative and legal influence, which must take into account both the biological integrity of natural complexes and the technogenic impact of human activity on the environment.

Environmental protection as an object of legal regulation is considered as a set of social relations aimed at preserving, restoring, and improving the quality of the environment, ensuring environmental safety, and implementing the environmental rights of citizens. In this context, the most important element within the system of these relations is the rule of law in the field of environmental protection. This rule of law is not just a formal adherence to the letter of the law, but rather a complex system of formation, compliance, and enforcement of legal norms that define a set of principles, directions, and forms of regulated human and societal impact on the environment.

The author's understanding of the category "legality in the field of environmental protection" is a system of formation, compliance, and enforcement of legal norms that define a set of principles, directions, and forms of regulated human and social impact on the environment in the context of compliance with environmental quality standards. This understanding allows for the differentiation between the general category of legality and the specific environmental legal order.

Ensuring the rule of law in the field of environmental protection is defined as the purposeful activities of authorized entities aimed at maintaining a system of legal norms that guarantee a favorable state of the environment (preventive function), as well as monitoring compliance with these norms, imposing administrative penalties, and creating conditions for civil and criminal liability (restorative function).

An analysis of the genesis of the domestic system of legal regulation of environmental protection has shown its evolution from the fragmentary norms of the *Russkaya Pravda* to comprehensive modern regulation. The modern model is characterized by the active use of administrative and legal forms and methods of influence, which is due to the historically rooted state-centric model of natural resource management and the insufficient involvement of individuals in environmental protection activities. It is this public-law focus that determines the fundamental importance of optimizing the legal mechanism for environmental protection, which functions as a sequence of interrelated procedures that encompass law-making, law enforcement, and legal proceedings. The law-making form involves the development and adoption of regulations that form a hierarchical system from the Constitution of the Russian Federation to municipal regulations. The law enforcement form ensures the practical implementation of these regulations in the activities of

The legal mechanism for environmental protection can be represented as a dynamic system that includes a sequence of interrelated procedures: the development of regulations in the field of environmental management and

protection, the implementation of legal norms in practice, the implementation of state environmental control and supervision, and the application of legal measures for environmental offenses under current legislation. In this context, the administrative-legal component plays a crucial role, as it is the primary means of ensuring environmental protection.

Their significance in ensuring compliance with the law in the field of environmental protection is extremely important, which is why the second chapter of the dissertation focuses on analyzing the characteristics of the administrative and legal mechanism for ensuring compliance with the law in this area, as well as formulating directions for its optimization.

Ensuring the rule of law in the field of environmental protection is a necessary prerequisite for creating an effective system of legal regulation aimed at preventing environmental offenses and minimizing the negative impact of economic activities on the natural environment. Based on this, the presented approach to understanding the essence of the administrative and legal mechanism for ensuring the rule of law in the field of environmental protection suggests that it should be viewed as a complex, hierarchically organized system of administrative and legal means (norms, institutions, and procedures) that ensure the implementation of the principle of legality in the field of environmental relations. The structure of the mechanism includes a regulatory framework, subjects (executive authorities, the prosecutor's office, and local self-government bodies), procedural forms (control, supervision, and jurisdictional activities), and guarantees of effectiveness (interaction and responsibility). Its key features include:

The features of the mechanism under consideration are manifested in its adaptation to the specifics of environmental relations, where violations of the law are often latent and require prompt response. Administrative liability is traditionally considered the most effective type of legal liability in the environmental field due to

the efficiency of procedures and the possibility of applying measures to legal entities.

At the same time, the most important problem in terms of ensuring the legality of administrative penalties is the extremely low level of penalties for individuals under most of the provisions of Chapter 8 of the Administrative Code. The situation is further complicated for legal entities, as the penalties are often not commensurate with the economic benefits that a company receives by ignoring environmental requirements.

To solve this problem, it is proposed to introduce a system of penalties that are regulated at the regional legislative level, based on a fixed minimum ratio of 1:20:100 for individuals, officials, and legal entities, respectively. This ratio ensures that the punishment is commensurate with the administrative and managerial status, matches the scale of the damage, and enhances prevention. The base level of penalties is determined by the severity of the offense, taking into account regional specifics, but it must be at least equal to the minimum wage.

The most important element of this mechanism is the system of law enforcement agencies. The Ministry of Natural Resources and Environment of the Russian Federation provides overall coordination, while specialized agencies (Rosprirodnadzor, Rosselkhozadzor, and Rosleskhoz) carry out control and supervision functions in specific areas. The problem with the current management system is the lack of a unified centralized environmental control body, and the dispersal of authority among various agencies leads to situations of "collective responsibility" and the substitution of functions performed by different entities.

There is a critical imbalance in the enforcement mechanism in this area: annual results of prosecutorial supervision indicate that almost 300,000 violations of environmental legislation have been identified, but only about 30,000 administrative cases have been initiated. This low level of conversion of identified violations into actual enforcement actions indicates serious failures in the

implementation of jurisdictional powers. The key factors here are the weak evidence base, limited powers of inspectors, and lack of proper coordination between different agencies.

In this context, the third chapter of the dissertation contains a set of practical recommendations aimed at improving the legal regulation of various aspects of the problem under analysis, improving the quality of interaction between control and supervisory agencies, and developing municipal environmental control.

A significant area of development for the institution of prosecutorial supervision in the field of environmental protection is the transition to an ecosystem-based approach to the organization of specialized prosecutor's offices. Unlike the traditional administrative-territorial division, the ecosystem approach involves the implementation of supervision within the boundaries of integrated natural complexes (water basins, coastal zones, and mountain systems) that are connected by stable functional relationships. This approach allows for more effective management of cascading environmental risks in territories that fall under different administrative jurisdictions.

In this context, the need to recreate the Azov-Black Sea Interregional Environmental Prosecutor's Office (ABIPPO) is justified. By combining supervisory activities in the regions of the Southern and North Caucasus Federal Districts, including the new constituent entities of the Federation, it will be possible to comprehensively manage the environmental risks of the unique coastal and marine ecosystem. This will ensure a unified approach to supervision in the context of deepening economic ties between the regions and prevent situations where violators evade responsibility by shifting their activities beyond the jurisdiction of local prosecutor's offices.

The interaction between environmental control bodies and prosecutors is recognized as a legal guarantee of compliance with the law in the field of

environmental protection. The basis is the common goal-setting, which transforms the relationship into a strategic partnership.

For the practical implementation of cooperation, it is proposed to use the Model Regulations for conducting joint on-site inspections, the draft of which is presented in the dissertation work. This regulation should clearly distinguish the functions of the parties: prosecutors ensure the legal qualification of violations and compliance with procedural norms, while specialists from Rosprirodnadzor conduct technical assessments, sample collection, and instrumental measurements. This distribution of powers eliminates duplication of actions, enhances the legal stability of the collected evidence, and forms an institutionalized strategic partnership model.

A promising tool is also the conclusion of Cooperation Agreements between the Prosecutor's Office and regional environmental ministries, which should provide for not only formal information exchange, but also mandatory coordination of inspection plans, the participation of prosecutors in the consideration of administrative offenses, and the joint development of unified law enforcement positions. This will transform the disparate actions of the agencies into a stable, legally regulated coordination mechanism that enhances the overall effectiveness of law enforcement.

One of the most significant gaps in the current administrative mechanism is the de facto exclusion of the municipal level from the environmental control system. Between 2004 and 2011, a series of legislative changes resulted in the loss of full-fledged control entities by local governments. This decision was motivated by the financial constraints faced by municipalities and their lack of qualified personnel, but it has created a legal vacuum at the grassroots level.

Due to limited resources, federal and regional control bodies are unable to effectively monitor local threats, such as minor violations of landscaping rules, unauthorized landfills in settlements, or the condition of municipal green spaces. Municipal control is designed to ensure the implementation of public functions in

relation to those objects that are not under the scrutiny of higher-level institutions. Its restoration is necessary for prompt response to threats to the environmental well-being of the local community.

In order to improve the legislation, it is proposed to supplement Federal Law No. 7-FZ with Article 68.1 "Municipal Environmental Control (Municipal Ecological Control)". This provision should legalize the activities of local self-government bodies to ensure compliance with requirements within the territory of a municipal formation. Local self-government bodies should implement control over compliance with the rules established by municipal acts, while clearly distinguishing their responsibilities from those of federal and regional authorities to avoid duplication. This will eliminate existing conflicts, enhance the legal validity of evidence, and improve the effectiveness of law enforcement.

In order to eliminate systemic failures in the administrative and legal mechanism for environmental protection, it is necessary to implement a package of legislative proposals aimed at strengthening the powers of prosecutors and inspectors. One of these proposals is to amend the wording of paragraph 1 of Article 25.11 of the Code of Administrative Offenses of the Russian Federation. Under the new wording, the prosecutor should be given the right to request the suspension of illegal legal acts that have been protested until they are reviewed in detail. In the environmental sphere, this is of critical importance, as the implementation of an illegal decision to develop a forest fund or allocate land in a water protection zone can lead to irreversible consequences even before the prosecutor's protest is considered.

Another important step is to clarify paragraph 2 of Article 76 of Federal Law No. 248-FZ. The mandatory use of video recording as an alternative to the presence of a controlled person will serve as a procedural guarantee of transparency and eliminate the possibility of falsifying evidence. This is particularly relevant when

detecting unauthorized emissions or discharges that require immediate documentation upon detection.

The systematic implementation of these proposals will help to overcome functional fragmentation and increase the level of conversion of identified violations into effective law enforcement acts. The administrative and legal mechanism for ensuring the rule of law in the field of environmental protection should be transformed from a reactive tool for recording past events into a proactive system for preventing environmental risks, which requires not only targeted amendments to legislation, but also a profound institutional restructuring of the principles of interaction between the entities involved in this mechanism.

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