

Criminal Liability of Legal Entities for Environmental Crimes: Foreign Experience for the Russian Legislature

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Abstract: The article focuses on the problems of criminal liability of legal entities for environmental crimes in foreign countries and this institution implementation in the Russian Federation. To this end, the research is performed as a comprehensive review of the theory and practice of introducing criminal liability of legal entities as a result of linkages between criminal and environmental law. To achieve this goal, the international conventions and certain types of documents of the European Union on environmental protection (Directives and Regulations) were examined in research. The substantiation of a unified approach to the creation of an integral legal system based on the principles of interdisciplinary unification and integration was based on the use of general scientific methods: structural-functional, probabilistic and case study methods. The results of the introduction of provisions on the criminal liability of legal entities for environmental crimes in the national Criminal Codes of Denmark, Norway, Poland, Finland, France are presented. The practice in the criminal standards application in respect of ecology in the United States of America is analyzed separately. It is noted that on most topical issues, national criminal laws are of a similar nature and have common approaches: scientifically grounded methods of applying criminal liability of legal entities and special methods of influencing their behavior. The necessity of a systematic approach to solving the problem of introducing criminal liability of legal entities for environmental crimes in the Russian Federation has been substantiated.


1 INTRODUCTION


In recent decades, the world economy has changed the vector of development of all industries towards modern industry greening, which is performed through the modernization of all process lines of production and individual industrial enterprises (Trikoz, 2020; Piroozfar, 2019; Knight, 2017). Undoubtedly, this process and legislative mechanisms for environmental protection are stimulated by the upgrading of penalties of economic entities for the results of their activities (Spapens, 2018). Following these trends, a comprehensive analysis of the international legal component of the criminal liability of legal entities for environmental crimes becomes relevant (Greife, 2020). The latest discoveries of world science have proven the direct dependence of environmental and human health on

the negative impact of industrial facilities (Altopiedi, 2019; Bagreeva, 2018). Despite the fact that almost the entire international community has switched to the ecological modernization of the economy, the issues of economic entities (legal entities) responsibility remain largely controversial. In the authors' opinion, there is a misconception that the problems of bringing legal entities to criminal responsibility in the Russian Federation are not relevant. The evidence base for this opinion was the textbook appeals to the geographical features of the country: a colossal territory, a variety of climatic zones and an uneven regional concentration of the permanently resident population. Nevertheless, the Russian Federation has international obligations in respect of environmental protection. The interests of the Russian economy are associated with an increase in the export of domestic goods, services and

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technologies. Tough competition has become the reality of today in world markets due to the compliance of technologies and products with modern environmental requirements. Therefore, the Russian economy is actively involved in the process of adaptation to international environmental standards, which, of course, requires the legislature to return to the issues of criminal liability of legal entities for environmental crimes (Rozenko, 2017). In this regard, the most important problem is the relationship between "action" and "consequences" with regard to environmental crimes of environmental protection (Lopashenko, 2020). Therefore, the problem of criminal liability of legal entities is of great interest and professional controversy among legal scholars and law enforcement officers (Selivanovskaya, 2018). Note that this institute already exists in many European countries and countries of the North American continent (Ladychenko, 2019; Golubev, 2020). These states have accumulated significant legislative experience and have developed a stable law enforcement practice to bring legal entities to criminal responsibility for environmental crimes, the study of which is necessary in order to improve Russian legislation.

2 MATERIALS AND METHODS

As part of the research, primary sources were analyzed - legal acts regulating the criminal liability of legal entities for environmental crimes in European countries and the United States, as well as the prospects for bringing economic entities to justice in the Russian Federation.

The regulatory legal acts of the international and national levels of criminal legislation were used in research. Close attention was paid to the European legislation on environmental protection in the economic activities implementation by legal entities. Certain types of documents of the European Union on environmental protection are represented by conventions, directives and regulations. The general issues of unification of the national legislation norms with international legal norms, the complexity of approaches to environmental protection and the prosecution of legal entities for environmental crimes are considered. The article analyzes the features of the US Model Criminal Code, the norms of which operate at two levels - federal and regional (state). In order to develop a general theoretical approach, the works of well-known scientists of criminal, environmental and international law were studied, which influenced the

structure and results of the research. To substantiate a unified approach to an integral legal system creation based on the principles of interdisciplinary unification and integration, general scientific methods were used: the structural-functional method, the probabilistic method, the case study method. Private scientific methods were used: the method of comparative legal analysis, legal statistics, the method of legal modeling and the method of legal forecasting. Also, the methodological basis of the research should include the environmental-legal and empirical methods.

3 RESULTS AND DISCUSSION

Regulatory legal acts, which are international and adopted in recent decades, determine the main directions of environmental protection, as well as form a new vision of the application of criminal liability for environmental crimes (Luttenberger, 2017). The founding act was the Council of Europe's Environmental Program, developed and adopted in 1961. According to this program, the European Union countries have formed the basic directions of national environmental policies. When forming the foundations of the national environmental policy, each specific state took into account not only its inherent, but also general European environmental problems: the economic efficiency of the main production, the corresponding development of innovative technologies and techniques in various sectors of the economy, social tension due to national environmental problems and the level of public consciousness on relation to the country's international obligations (Kitteringham, 2020). Therefore, a unified and comprehensive approach to environmental protection and responsibility for environmental crimes has developed on the European continent.

Table 1: Certain types of documents of the European Union on environmental protection

Conventions	Directives	Resolutions
The Convention on Long-range Transboundary Air Pollution (Geneva, 1979); The Convention on the Conservation of Antarctic Marine Living Resources (Canberra, 1980); The Vienna Convention for the Protection of the Ozone Layer (Vienna, 1985); The Convention on the Protection of Environment through Criminal Law (Strasbourg, 1998).	The Council Directive of the European Union 96/61/EC 24.09.199 (integrated pollution prevention and control); The Council of Europe Directive 96/62/EC 27.09.1996 (ambient air quality assessment and management); The Directive 2004/35/EC 21.04.2004 (environmental liability with regard to the prevention and remedying of environmental damage).	Resolution No. 1655/2000 17.07.2000 (financial instrument for the environment); The Regulation (EU) No 761/2001 19.03.2001 (voluntary participation by organisations in a Community eco-management and audit scheme); The Regulation (EU) No. 166/2006 18.01.2006 (establishment of a European Pollutant Release and Transfer Register).

As can be seen from the above materials, a significant number of European Union regulatory legal acts highlight specific problems of environmental protection. The national policy of each country is in the vector of requirements, which are set out in the conventions, directives and regulations of the European Union (Scholten, 2017). As a result, the European Committee on Crime Problems of the Council of Europe in 1978 proposed to discuss the possibility of prosecuting legal entities for committed environmental crimes. Table 2 shows the results of this recommendation implementation in the national Criminal Codes of a number of European countries.

Table 2: Certain European Union countries that have incorporated provisions on the criminal liability of legal entities for environmental crimes into national criminal legislation (chronological order).

Norway	France	Finland	Denmark	Poland
1991	1992	1995	1998	2002
+	+	+	+	+

The next stage of performing the coherent environmental policy was the Convention on the Protection of Environment through Criminal Law, adopted in Strasbourg in 1998. The document identified the main reasons for the development and adoption of this concept:

- critical levels of negative impact on the environment are the result of uncontrolled economic activity;
- human life and health, biological diversity and the environment, in general, must be protected by all means known to modern mankind;
- negative (dangerous) consequences for environmental health are classified as criminal offenses that entail appropriate sanctions.

The Council of Europe has defined two levels of measures to be taken in the environment protection through the norms of criminal law - the national level and the international level. Table 3 shows the limits

of national jurisdiction depending on the territory, object and subject of the wrongful act.

Table 3: Determination of the fact of jurisdiction over an environmental crime:

The crime was committed:
on the territory of a particular state
on a civil ship in a sea or river basin
on board a civil aircraft
by a citizen of a particular country

With regard to civil sea or river ships (Caballero, 2017; Vollaard, 2017) or all types of civil aircraft (aircraft, helicopters, gliders, etc.), a rule has been established that these objects must operate under the flag of a specific country or be registered in its territory. Each state is empowered to take the necessary steps to establish jurisdiction over the relevant criminal offense. Among the necessary measures at the international level, the Convention on the Protection of Environment through Criminal Law includes ensuring the maximum degree of interaction in the investigation and assistance in procedural actions in relation to criminal offenses.

Analyzing the practice of applying the criminal law norms in the field of ecology in the United States of America, it should be noted that it is characterized by a two-level system. The federal level is characterized by the absence of a criminal law with a complete codification of *corpus delicti*, as well as punishment measures for legal entities for committed criminal acts. The Model Criminal Code has been developed and adopted at the federal level in the United States, and has the following features:

- is clear recommendatory in nature;
- is intended as a basis for the development of separate criminal codes for each state. Table 4 presents the process of differentiating environmental crimes at federal and regional (state) levels.

Table 4: The result of environmental crimes differentiation in the United States.

Federal level	Particular state level
A crime punishable under a federal legislation	A crime punishable under the legislation of a particular state

Note that most environmental crimes are consolidated into a group of so-called "federal crimes". Indeed, a certain negative impact on the environment caused by these crimes, as a rule, is inflicted on adjacent territories, that is, simultaneously in several states or several specially protected territories and objects. Current US criminal legislation provides for various penalties for legal entities for environmental crimes. For example, criminal penalties (Greife, 2017) as a cover for the state's expenses for the restoration of the disturbing quality of the environment. A complex of additional criminal legal sanctions against legal entities is also widely used. These sanctions should include significant restrictions in the registration of government loans and grants, as well as in the receipt of financial preferences provided for by US legislation. Among the effective sanctions, experts single out the prohibition (restriction) of the right to conclude state (federal) contracts and cancellation of licenses for the right to perform certain types of economic activity.

The issue of criminal liability of legal entities for environmental crimes is still controversial in the Russian Federation (Grebennikov, 2017). Recall that the Russian legislature has already made attempts to discuss the introduction of the institution of criminal liability of legal entities. Recall that a similar draft Federal Law was developed by the Investigative Committee of Russia in 2011. The developer presented measures of criminal law in respect of legal entities that were justified in a theoretical and law-making sense. A timely positive solution to this problem will undoubtedly have a stimulating effect on strengthening inter-branch ties between the criminal and environmental law of the Russian Federation. In turn, the introduction of criminal liability of legal entities for environmental crimes will become a guarantor of the implementation of preventive measures in relation to objects of criminal law protection. The existing vector of the implementation of environmental standards of the Russian Federation and similar standards of foreign countries will improve the process of regulating the criminal liability of legal entities for environmental crimes.

4 CONCLUSIONS

The results of the research allowed the authors to make certain conclusions and proposals.

Inter-branch integration of criminal and environmental law in terms of bringing legal entities to criminal responsibility for environmental crimes requires an integrated and systematic approach.

International regulatory legal acts not only determine the main directions of environmental protection, but also form modern approaches to the application of measures of legal entities criminal liability for environmental crimes.

At the international level (the European Union and the United States of America), a unified and comprehensive approach to environmental protection and responsibility for environmental crimes has developed, which should be studied by the Russian legislature in order to upgrade the penalties of legal entities for the "environmental" results of their economic activities. The central direction of this field is the timely introduction of the institution of criminal liability of legal entities for environmental crimes into the legislation of the Russian Federation.

The research of international and domestic experience emphasizes the need for an early correlation between the norms of criminal law and environmental law to ensure adequate measures for environmental protection and rational use of natural resources.

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