

Publicado en Actualidad Jurídica Ambiental el 08 de abril de 2024

“ENVIRONMENTAL LAW AND ORDER AS A DOCTRINAL CATEGORY”

“EL DERECHO AMBIENTAL COMO CATEGORÍA DOCTRINAL”

“ЭКОЛОГИЧЕСКИЙ ПРАВОПОРЯДОК КАК ДОКТРИНАЛЬНАЯ КАТЕГОРИЯ”

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Fecha de recepción: 04/03/2024

Fecha de aceptación: 13/03/2024

Doi: <https://doi.org/10.56398/ajacieda.00365>

Abstract:

The article examines the doctrinal category "environmental law and order", which is forming in Russian legal science and has no direct analogues in other jurisdictions. Its structure, types and forms of manifestation, correlation with other ecological legal terms are substantiated. The need to use this legal structure lies in the fact that it allows you to justify the degree of effectiveness of environmental legislation, evaluate the activities of executive and judicial authorities. The conclusion is argued that along with quantitative (statistical) methods of evaluating effectiveness, it is necessary to apply sociological

methods, ranging from interviewing experts in the field of environmental protection, to finding out the opinions of the population of towns and villages on actual environmental issues. This will improve the "feedback" between public authorities and citizens, as well as to assess the work of environmental authorities more objective. The analysis of the survey of Orenburg students on their comprehension of the concept of environmental law and order legal order is given.

Resumen:

En el artículo se examina la categoría doctrinal de "orden jurídico ambiental", que está surgiendo en la ciencia jurídica rusa, que no tiene análogos directos en otras jurisdicciones. Se justifica su estructura, tipos y formas de manifestación, relación con otros términos ambientales y legales. La necesidad de utilizar este diseño legal radica en el hecho de que permite justificar el grado de efectividad de la legislación ambiental, evaluar las actividades de los órganos ejecutivos y judiciales. Se argumenta que, además de los métodos cuantitativos (estáticos) de evaluación de la eficacia, es necesario aplicar métodos sociológicos que van desde la encuesta de expertos ambientales hasta la consulta de las opiniones de la población de las ciudades y las aldeas sobre cuestiones ambientales de actualidad. Esto mejorará la "retroalimentación" entre las autoridades públicas y los ciudadanos, y hará que la evaluación del trabajo de las autoridades ambientales sea más objetiva. Se presenta un análisis de la encuesta de estudiantes de Orenburg sobre su percepción del concepto de estado de derecho ecológico.

Аннотация:

В статье рассматривается формирующаяся в российской правовой науке доктринальная категория «экологический правопорядок», не имеющая прямых аналогов в других юрисдикциях. Обосновывается ее структура, виды и формы проявления, соотношение с другими эколого-правовыми терминами. Необходимость использования данной правовой конструкции заключается в том, что она позволяет обосновать степень эффективности экологического законодательства, оценить деятельность органов исполнительной и судебной власти. Аргументируется вывод о том, что наряду с количественными (статистическими) методами оценки эффективности, необходимо применять и социологические методы, в диапазоне от опроса экспертов в области охраны окружающей среды, до выяснения мнения населения городов и деревень по актуальным экологическим вопросам. Это позволит улучшить «обратную связь» между органами публичной власти и гражданами, а также сделать оценку работы природоохранных органов более объективной. Приводится

анализ опроса студентов г. Оренбурга о восприятии ими концепции экологического правопорядка

Keywords: Environmental law and order. Category of environmental legal order. Court. Authority. Sociology.

Palabras clave: Orden ambiental. Ley. Tribunal. Autoridad. Sociología.

Ключевые слова: Экологический правопорядок. Закон. Суд. орган власти. Социология.

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0. INTRODUCTION

The current Russian environmental laws regulate various aspects of the interaction of nature and society, including the regulation of negative environmental impacts, economic regulation of environmental protection, issues of responsibility for environmental offenses, etc. Analyzing these norms, representatives of environmental legal science of Russia explore gaps and conflicts of legislation, identify trends and prospects of judicial practice in specific categories of cases, examine the powers of federal authorities, environmental management bodies of the subjects of the Russian Federation and local self-governments. Fully supporting the need for such research, it should still be noted that this approach leaves a number of important questions without answer: by what means the degree of effectiveness of legal environmental protection, the attitude of the population and representatives of public authorities to the quality of legal norms on nature protection should be determined, how to evaluate the work of specialized environmental authorities? What is the relevance and are there any shortcomings of the norms of the current federal environmental laws? How are they being applied by the Russian judicial power?

This list can be continued, but in our opinion, a new doctrinal category is necessary to improve feedback between public authorities and civil society, to establish a mechanism for their interaction, with the help of which it is possible to comprehensively assess environmental legislation, environmental protection management and the effectiveness of judicial solution of environmental disputes, to consider these issues not only in static and at the current moment (as it is done in legal science now), but in its dynamic (which will allow to make it possible to do forecast more accurately the development of the environmental situation in the country, improve the degree of public participation in making significant environmental decisions).

Such category already exists in Russian legal science – it is called "environmental law and order". At the moment, its first studies have already appeared, but the main emphasis in them is made on terminological or legal technical aspects,

without taking into account the possibility of using the methodology of other social sciences (sociology, political science), as well as without clear elaboration of the practical value of this doctrinal category.

The scientific term "environmental law and order", which we consider, has no direct analogues in European, Asian, American or other jurisdictions in the sense that is given in Russian environmental law science. Modern ecological and legal scientific schools in many developed countries of the world usually focus either on the protection of environmental human rights, or (as well as Russian ones) on certain economic, political, financial and other guarantees of environmental safety in separate areas of human activity (transport, energy, etc.).

Despite the importance of such an approach, it should be noted that such emphasis make it possible to analyze current environmental problems only at the present moment, reduce emissions of harmful substances from specific sources of pollution, etc. Moreover, Russia and a number of republics of the former USSR are characterized by a narrow normative approach, when modern and actual environmental problems are considered through the prism of the current legislation to identify its gaps and conflicts. The approach which we propose is fundamentally different. Using not only legal, but also sociological methodology, we offer a comprehensive look at the study of modern environmental problems, identifying their dynamics in the context of the development of more global social processes taking place both in Russia and in the world as a whole.

Due to the use of a wider arsenal of scientific cognition methods, it becomes possible to offer not only criteria for evaluating the current environmental legislation (ways for its improvement), but also a broader view of the trends and prospects of the state environmental protection activities, the role of environmental culture and education in ensuring environmental safety, ways and means of interaction between public authorities and civil society institutions. Based on these aspects, the purpose of the study of the environmental law and order category will be analysis of legal and other aspects of the implementation of environmental standards within the frame of certain national jurisdiction, determination of criteria for the effectiveness of the three branches of power, formulation of a feedback mechanism for the Russian state and civil society, and the development of a mechanism for public participation in making environmentally significant decisions. It will allow us to step away from the normative approach to research, place complex social processes into a broader context, and give them an objective assessment. The proposed legal category may be of interest to other countries of the world, with the amendment for historical, economic, legal, cultural and other aspects of national perception

of environmental protection issues in order to improve the interaction between the state and society. Our proposals may be mostly in great demand for the former republics of the USSR, which have a lot in common with Russia, both in terms of the content of legislation and problems with taking into account public opinion.

Based on the above mentioned, in the first part of this article we will consider the modern scientific understanding of the category of environmental law and order legal order, justify our author's concept of its content, and identify the place of this category in the system of other ecological legal concepts. We will assess the state of environmental law and order in legislation, the activities of environmental protection executive authorities, and also justify the role of the judiciary in ensuring it in the second part of the article. In the third part, a practical mechanism for establishing feedback between the state and public, will be proposed and in appendix No. 1 we will present a table showing the results of the assessment of environmental law and order by Russian students.

1. THE CONCEPT OF ENVIRONMENTAL LEGAL ORDER IN LEGAL SCIENCE

1.1. Modern theory of environmental legal order in Russia

The term "legal order" is sometimes mentioned in Russian legislation (civil and constitutional), and the concept of legal order received its greatest doctrinal development within the framework of the theory of state and law. G.S. Pratsko (2007) understands the order of society as an objective reality, which is the result of the interaction of legal institutions with real social relations, legal culture and legal consciousness. The content of the works by A.G. Balasanyan (2012) is devoted to the law and order, who notes that the rule of law is the real result and consequence of the implementation of the requirements of legality, he characterizes the state of orderliness of social relations regulated by the rules of law; the mechanism of economic, political and other guarantees of law and order has been studied (Vissarov, 2003); much attention is paid to the state's law enforcement function (Domnina, 2022).

S.V. Klevzov (2008) points out that the content of the idea of law and order is a fusion of legal, political and moral understanding the essence and objectives of law, indicates the value aspect of the problem, as well as the role of law and order in assessing the effectiveness of legislation. P.A. Kunakov (2007) explores the problem of participation of civil society subjects in ensuring law and order; P.S. Nazarov (2005) considers the rule of law both as a goal and a result of legal regulation; M.L. Repkin (2007) distinguishes between state and local law and

order; O.P. Saulyak (2010) proposes to distinguish between ideal and real legal order (the latter includes behavioral acts of both legal and illegal nature); A.V. Yudin (2009) draws attention to the existence of both an official legal order based on existing law and a non-state (spontaneous) legal order.

V.V. Borisov (1983) in the course of studying the relationship between legal relations and legal order, notes that within the category of "legal order", that the set of legal norms and their implementation does not come to the fore, but orderliness in the regulation of social relations, based on legal regulations (the social result of legal influence, and not the process of implementing the right). Certain types of legal order have been well studied in legal science: national and international legal order (Kalamkaryan, 2013); military law and order (Shestak, 2016); energy law and order (Romanova, 2016); migration law (Stepanov, 2013) and a number of others. Some authors propose to consider problems of law and order at the level of individual branches of law.

So, S.V. Andreev (2007) substantiated the category of land legal order (by which he understands the complex of legal relations), examining it in the context of urban planning legislation. Much attention is paid to the category of legal order in civil law, ranging from the study of the invalidity of transactions that contradict the fundamentals of the legal order (Blinova, 2003), to the justification of the civilistic legal order (Ryzhenkov, 2017). The category of legal order is often studied within the framework of labor law, administrative and constitutional law (Bezrukov, 2017), as well as a number of other fields. This scientific review can be continued further. Summarizing all existing positions, M.A. Grigorieva (2010) notes that the elements of the legal order include almost all legal phenomena: positive law, subjects of law, objects of law, legal properties of subjects, legal relations, legal facts, legal consciousness, lawful behavior. As a result, a certain conglomerate emerges, in which both real objects of reality and legal abstractions are combined.

Meanwhile, in our opinion, the terms used in science should reflect different socio-legal phenomena, since there is no point in offering two different terms to describe the same legal issue or process. In other words, the legal order cannot be identified, for example, with legal relations (or their totality), since in this case it loses its independence. At the same time, the undoubted advantages of the above scientific works should mention their contribution to the general theory of law and order and a thorough study of individual elements or procedures for ensuring law and order within the Russian legal system. Separately, it is worth highlighting the authors' detailed analysis of terminology (international, national, migration, labor, energy, land, civil law, etc.).

The category "ecological legal order" has received much less development in legal science. Nevertheless, it is worth to highlight the works of E.F. Pushkareva (2008), who studied the relationship between environmental human rights, international environmental law and order, and sustainable development; A.I. Miroshnichenko (2011), who analyzed the relationship between the categories "ecological legal order" and "ecological interest"; T.A. Davydova (2005), who believes that the environmental legal order is a system of environmental legal relations for the implementation of environmental requirements of environmental legislation, and also points out that an integral part of the environmental legal order is environmental safety; a number of representatives of the science of criminal law highlight the "ecological legal order" as an object of environmental crimes, although this approach also has opponents (Golubev, 2022); Sh.H. Fayziev (2004) introduces into scientific circulation the category "laws of environmental law and order"; O.V. Ustyantseva (2010) considers the problems of environmental education as an important element of the environmental legal order. No less interesting considerations were expressed by other scientists.

So, I.A. Ignatieva (2002) considers the creation and preservation of law and order in the field of environmental relations as the goal of environmental legislation; according to A.T. Ozenbaeva (2022), the environmental legal order should be considered as an institution of environmental law. An interesting idea is expressed by E.A. Belokrylova (2014), highlighting external threats to environmental law and order, including smuggling of natural resources, cross-border accidents and disasters, etc. E.V. Chulichkova (2014) believes that the environmental legal order is characterized by the presence of subjective rights, the main of which is the constitutional right to a favorable environment. In his turn, A.S. Galanov (2016) considers environmental law and order as an element of legal culture.

This list can be continued, but we note that the most consistent theoretical issues of ensuring environmental law and order were studied in the works of N.A. Dukhno (2000), who examined the concept, classification, structure and management of environmental law and order, both at the national and international levels. Very valuable in his research is the elaboration of the general theory of environmental legal order, its individual structural elements, and consideration of its place among related legal categories. N.A. Dukhno believes that the environmental legal order is a system of legal relations that characterizes a favorable level of the environment, which has developed as a result of the implementation of constitutional rights, freedoms and legitimate interests of citizens and other parties that perform and obey the legal obligations assigned to them within the boundaries regulated by environmental law. At the same time, he proposes to consider the environmental legal order as an integral

part of the structure of environmental law, its independent legal institution. Despite all the value of the latter concept, it has a number of debatable aspects. Firstly, if the environmental legal order characterizes a favorable state of the environment, but it is not entirely clear how this legal structure differs from "environmental human rights" and "ecological safety", devoted to the same issue. Secondly, besides compliance and execution, the Russian theory of state and law also distinguishes other forms of implementation of law - use and application, which, in this case, are not named as means of ensuring environmental law and order.

Thirdly, the environmental legal order cannot be a legal institution, because this is a purely doctrinal category that is not reflected in legislation. It seems that it is necessary to clearly distinguish between environmental law as a science and a branch of law. Environmental legal order is the most important scientific category that allows us to understand the essence and mechanism for implementing environmental legal regulations, but it is not normatively enshrined in any law. In other words, we distinguish, for example, the institution of responsibility in environmental law because objectively there are norms of environmental and other branches of law, which altogether form this complex (intersectoral) institution. It will be possible to speak about the emergence of a new legal institution "ecological legal order" only when it is reflected in the norms of environmental law in Russia.

No less interesting considerations are expressed by L.V. Rashchupkina (2006), who believes that environmental legal order is a type of legal order that has been developed in the sphere of interaction between society and nature concerning environmental management, environmental protection and environmental safety, aimed at creating a favorable environment, based on law and legality, resulting from lawful activities of subjects of law and provided by government bodies and other subjects. Despite the importance of this approach, we note that it is somewhat formal, and do not allow us to highlight the specific features of the environmental legal order and the mechanism for ensuring it.

A.I. Miroshnichenko (2011) considers the environmental legal order as a system of legal methods enshrined in legislation for implementing the guidelines of state environmental policy to regulate relations between man and nature. The author points out the elements of environmental law and order: natural resources ownership, environmental management, control in the field of use and protection of nature, responsibility for causing harm to the natural environment.

Despite the attractiveness of this approach, we still note that the author includes into the elements of the environmental legal order only some institutions of environmental law (control, responsibility), leaving out all the others (standardization, economic regulation, licensing, etc.), which indicates insufficiently systematic approach. A rather interesting classification of the laws of the Republic of Uzbekistan is offered by Sh.Kh. Fayziev (2004), highlighting "laws of environmental law and order", to which he refers codified regulations, the purpose of which is to ensure compliance of environmental rights and obligations, warning and prevention of environmental offenses, establishment of sanctions for illegal actions or inactions (Labor Code, Criminal Code, Civil Code and a number of others). However, this approach also has a debatable aspect, since not only codified laws, but also all others are aimed at achieving these goals. In addition, environmental law and order cannot be equated with law.

An interesting definition is offered by A.M. Namchuk (2000): environmental law and order is a properly organized regime for the exploitation and protection of natural resources, i.e. relations of environmental management, legally enshrined in rules, instructions, and orders. Based on this interpretation, he proposes to divide all environmental crimes into two groups: crimes encroaching on the environmental law and order (natural resource and poaching) and crimes encroaching on environmental safety (environmental protection). However, this position is also vulnerable to criticism, since "natural resource" crimes will encroach on the "natural resource law order" and not on the environmental one. In addition, poaching crimes encroach on a natural resource (fauna), and therefore there is no logic in the classification proposed by this author. Yu.A. Palamarchuk (2012) proposes to consider the environmental legal order as a kind of legal order with a complex internal structure. Its elements are: environmental law (law of environment), subjects of environmental law and order, environmental rights and obligations of environmental legal relations participants, environmental legal literacy of citizens and officials, state and public management of environmental law and order. This author considers legality as an indicator of the quality of the environmental legal order and its mode of operation. In his opinion, when the law prevails, the law functions successfully; if legal norms are violated - the rule of law is destroyed. As the controversial aspects of this theory may be considered the inclusion into the category "ecological legal order" of too diverse categories that are in a complex relationship with each other - this is both a branch of law, and subjects of law, their rights and obligations, legal consciousness, etc. With this approach, the criterion for the systematization carried out by the author remained unclear.

From the above review, several intermediate conclusions can be made. The category "ecological legal order" is not enshrined in law, and this means that it is not normative, but doctrinal. For this reason, it cannot be identified with the branch of environmental law, environmental legal institutions and norms. It is not a synonym or an integral part of other legal categories - legal relations, legal consciousness, legal culture, etc., although it is in various legal relationships with them. Law and order cannot be the goal of environmental legislation or the object of a criminal attack, as it is still a rather amorphous doctrinal category that does not have a clear content. However, is it possible to formulate its non-contradictory concept?

1.2. Ecological legal order as a new complex doctrinal category: our constructive proposals

Most of the above doctrinal considerations have one thing in common: the authors believe that the category of legal order means the orderliness of social relations, bringing them into a certain system. We generally agree with this approach, but a practical question arises: how to determine the degree of orderliness of environmental or other social relations by legal means? Can we currently say that the goals of environmental law and order have been achieved? The authors cited above do not ask such a question and do not offer answers to it. In our opinion, it is impossible to derive a mathematical formula for environmental law and order (allowing it to be assessed as high, medium or low). Even if such a formula can be substantiated, what will be its legal significance? In this regard, it seems that considering the environmental legal order from a purely normative point of view as a set of legal norms regulating one or another type of social relations or perceiving the environmental legal order as an environmental-legal institution will inevitably create an insoluble problem of duplicating the meaning and content of several environmental-legal categories at once, mainly along the line "subject (object, content) of the "environmental legal order"- subject (object, content) of the environmental legal relationship.

If we consider the category of "environmental law and order" through the prism of its purpose, we will inevitably get duplication in terms of ensuring "environmental law and order" and "ecological safety". It seems that the category "environmental legal order" has value only in the context of the practice of implementing environmental law, if it shows the effectiveness of environmental activities of public and private subjects of environmental law, reflects the condition of the environment and the degree of implementation of environmental human rights. Only in this case this category really receives practical meaning, as well as units of measurement.

In our opinion, the degree of orderliness of environmental relations can be shown by quantitative methods: statistics of solved environmental offenses, court decisions, adopted laws, etc. This approach indeed brings us somewhat closer to answer the questions put above, but leaves the qualitative side of the problem unattended. Are the adopted laws effective? How many committed environmental crimes remained latent and were not included in the statistics? How many citizens have been denied in the registration of applications for commission of environmental crime? To answer these questions, it seems necessary to formulate both our author's definition of the environmental legal order and its main structural elements, types and forms of manifestation, etc. Environmental legal order, in our opinion, is a state of social relations regulated by law in which all key problems in the sphere of interaction between nature and society are legislatively solved, a multi-level system of environmental management bodies is created, and effective judicial protection of environmental rights and freedoms is ensured. This definition requires the following clarifications. The ecological legal order is a doctrinal category, and, therefore, there can be no consensus on its content and properties in principle. As with any other doctrinal legal categories (legal relations, legal consciousness, etc.), different points of view can and should be present. Environmental law as a set of legal norms reflects the statics of legal regulation. The category of environmental law and order provides a dynamic assessment of legal norms, the activities of environmental management bodies and the quality of law enforcement activities of courts.

This definition requires the following clarifications. The ecological legal order is a doctrinal category, and, therefore in principle, there can be no consensus on its content and properties. As with any other doctrinal legal categories (legal relations, legal consciousness, etc.), different points of view can and should be present. Environmental law as a set of legal norms reflects the statics of legal regulation. The category of environmental legal order gives a dynamic assessment of legal norms and the activities of authorities.

It is necessary to distinguish between ideal and real environmental law and order, while any criminal forms of regulating social relations (even if they are effective in their own way) cannot be designated by this term (different terminology should be used to describe them). It is necessary to distinguish the environmental legal order as a system for assessing the current legal regulation and as a system of guarantees that ensures the effectiveness of the implementation of environmental legal norms. Such guarantees should include general social conditions for the implementation of environmental law: economic (creation of tax or other economic incentives for natural resource users or environmental entrepreneurs); political (state support for public environmental associations); spiritual (development of environmental legal

awareness and legal culture). Since the environmental legal order reflects the real picture of the society legal life (the degree of achievement of the ideal provided for by law), sociological methods for assessing the environmental situation should be used for its study together with quantitative methods. The latter can be used both to identify the opinion of experts and to clarify the opinion of the public (on the issue of waste management, etc.). The structure of the environmental legal order coincides with the system of environmental law, as the study of the real state of environmental relations is possible only within the framework of the current environmental law, which regulates three basic fields of public relations: establishing environmental requirements for certain types of activities (in energy, transport, industry, etc.); defining features of the protection of individual natural resources (water, land, subsoil, forests, etc.); establishing the specifics of the legal regime of specially protected natural areas (national parks, etc.). Accordingly, we can talk about ensuring environmental law and order in general or within the framework of certain areas of environmental protection (for example, in the field of waste management). As a result, we can assess the current legal state of environmental public relations in a country or region (and make a forecast for the future) using the category "ecological legal order"; identify the degree of sufficiency of environmental legal standards; the effectiveness of the implementation of environmental rights and the fulfillment of environmental responsibilities of citizens, legal entities and authorities; the state of their judicial protection; analyze the mechanism of functioning of environmental general social guarantees.

Thus, the environmental legal order is not a purely legal category. This is a complex concept that provides an assessment of the effectiveness of law and law enforcement, the relationship between citizens and the state.

1.3. The place of environmental legal order in the system of law categories

The category "environmental legal order" is quite often mentioned in scientific works in the context of other environmental and legal terms, which determines the need to consider their relationship in more detail.

a) Environmental protection and environmental law and order

In contrast to the doctrinal category "ecological legal order," the definition of environmental protection is formulated in Article 1 of the Federal Law "On Environmental Protection" of January 10, 2002. It refers to the activities of public and private entities aimed at preserving and restoring the natural environment, rational use and reproduction of natural resources, preventing the

negative impact on the environment of economic and other activities and eliminating its consequences. We can assume that these categories are correlated as manner and matter, taking into account that the environmental legal order shows the dynamics of the implementation of environmental law in the country, reflects the state of legislation and law enforcement practice. The category "environmental protection" means a set of rules by which private and public entities are guided in their activities; environmental law and order evaluates and determines the degree of effectiveness of these activities.

b) Environmental safety and environmental law and order

As in the previous case, environmental safety is a regulatory category disclosed in Article 1 of the Federal Law "On Environmental Protection". It is understood as the state of protection of the natural environment and vital human interests from the possible negative impact of economic and other activities, natural and man-made emergencies, and their consequences. Based on this, a number of authors believe that environmental safety is an integral part of the environmental legal order (Vestov and Merkulova, 2017). In our opinion, it is not entirely true: the category "environmental legal order" shows the dynamics of the implementation of environmental law in a particular time period on the territory of a particular country or part of it, differing from the category of environmental safety in that the latter is a model of the ideal state of the environment (the goal of its protection), while "ecological law and order" shows the real state of environmental affairs (the degree to which this goal is achieved).

c) Environmental law as a branch of law and environmental legal order

The environmental legal order should be distinguished from the category of "environmental law" as a branch of law, since the environmental legal order is an assessment of the effectiveness of the application of legal norms and determines the degree to which the goal of regulating social relations by law is achieved.

d) Environmental law and sustainable development

The concept of sustainable development means to find a balance between social, economic and environmental interests in order to meet the needs of the present generation without bringing any damage to future generations. It is expected to improve the quality of life while reducing the impact on nature. In 2015, the UN approved 17 Sustainable Development Goals (SDGs), as well as a system of criteria and indicators for achieving these goals. Accordingly, environmental law and order involves assessing the effectiveness of achieving the SDGs.

e) The concept of green economy and environmental law and order

At the moment, there is no official definition of the green economy either at the international or national (Russian) level (unlike the concept of sustainable development). There are also no clear criteria and indicators for achieving green economy goals. However, an analysis of fragmentary references to the green economy in Russian regulations allows us to conclude that the green economy is a new economic and legal concept that involves the use of not only legal prohibitions and restrictions, but also economic incentives to improve the efficiency of use of natural resources, development of technologies, growth of environmental investments, which will ensure a reduction in anthropogenic pressure on the state of the world's ecosystems and ensure an increase in the well-being of citizens. At the same time, the transition to a green economy in itself does not mean sudden strategic breakthroughs. We are talking about gradual and consistent work on greening individual sectors of the national economy, the success of which will mean the state achieves the Sustainable Development Goals (Ryzhenkov, 2023). Accordingly, in the future, the category of environmental law and order will mean an assessment of the effectiveness of Russia's achievement of green economy goals, but after such criteria and indicators are approved.

2. CURRENT PROBLEMS OF ENSURING ENVIRONMENTAL LAW AND ORDER IN THE CONTEXT OF THE THEORY OF SEPARATION OF POWERS

Ensuring environmental law and order presupposes the presence of three conditions: effective environmental legislation regulating all key areas of interaction between society and nature; systems of environmental management bodies (federal, regional and local); judicial system. The ineffectiveness of even one link will mean that the goals of ensuring environmental law and order in the state have not been achieved.

2.1. The role of the legislature in ensuring law and order

Unlike Russia's neighbor Kazakhstan, which has the Environmental Code of the Republic of Kazakhstan dated January 2, 2021, Russian environmental legislation is not codified. Nevertheless, dozens of federal laws and regulations have been adopted in all main areas of environmental protection. Some areas of protection are better represented (waste management), others are less (climate protection), and regulations on some environmental issues have not been adopted yet (the creation of environmental disaster zones for heavily polluted and degraded areas). Despite limited legislative capabilities, the

constituent entities of the Russian Federation are actively developing regional legislation. They have the best representation of legislation on specially protected natural areas, the protection of certain natural resources (forest green belts, wildlife), and requirements for certain types of activities (waste management). Legal acts on nature protection are also adopted at the municipal level, for example, within the framework of land use and development rules that define the parameters and types of permitted use of land plots and real estate in territorial zones. When assessing the overall effectiveness of environmental legislation, it is necessary to pay attention to three problems. Firstly, there is no legislative plan and goal (ideal) for the system of environmental legislation to which the state could strive. The federal laws that have been adopted for many years now "patch holes" - eliminate gaps and conflicts, but do not contain breakthrough regulatory solutions. Secondly, the laws of the subjects of the Russian Federation are mostly of a declarative nature, and their real regulatory power is small. Thirdly, legislative bodies little communicate with the environmental community; deputies poorly take into account the wishes of their voters, and it does not contribute to increasing the efficiency of their rule-making. One of the options for solving problems of the legislation quality could have been the development of a Concept for the Development of Environmental Legislation - a political and legal act that defines goals, objectives, a plan for legislative work, etc. Similar developments were undertaken at the doctrinal level, but were not in demand.

2.2. The role of the executive branch in ensuring law and order

The practical implementation of environmental regulations is carried out by law enforcement and environmental authorities of the executive branch. Among the first, we should mention the police, which combat environmental offenses and provide assistance to environmental control (supervision) authorities during raids and other activities (Strantsov and Smyshlyaev, 2020). Previously, legislation allowed the creation of specialized environmental police units, but this is not currently provided for. Among environmental authorities, the largest environmental functions are assigned to the Ministry of Natural Resources and Ecology of Russia, which regulates the use and protection of natural resources (lands, waters, subsoil, etc.), the creation of specially protected natural areas, environmental monitoring, treatment with waste, etc.

Special regional environmental protection bodies have been created in the subjects of the Russian Federation, exercising both their own ones and the federal environmental powers delegated to them. Local government bodies also exercise certain environmental powers. Despite the creation of a multi-level institutional framework for nature conservation, this type of executive authority suffers from common Russian problems associated with corruption, excessive bureaucratization of decision making, and weak connections with public

associations. In addition, it is necessary to note the insufficient use of digital technologies, the slow adoption of orders, instructions and other by-laws (for example, on climate protection issues), the lack of a unified strategy for environmental protection, the low efficiency of environmental control (supervision) and bringing those responsible for environmental offenses to justice, insufficiently effective interaction with other federal authorities, as well as international environmental authorities (for example, on issues of cross-border air pollution), etc. At the same time, efforts are being made to improve citizens' access to environmental information, an interactive map of natural resources and environmental control objects by region has been created, and public councils are operating in government bodies.

2.3. The role of the judiciary in ensuring law and order

In accordance with Article 118 of the Russian Constitution, judicial power is exercised through constitutional, civil, arbitration, administrative and criminal legal proceedings. Each type of legal proceedings has its own procedural codes (Criminal Procedure Code, Civil Procedure Code, etc.). Within each type of legal proceedings, certain categories of environmental cases can be considered. At the moment, the number of environmental offenses is increasing every year (almost 3 times over the last 10 years), and in 2021 alone, for example, Russian courts considered 87 thousand cases of this category.¹ The main categories of civil (arbitration) environmental disputes concern compensation for damage to natural resources (forests, soils, waters), as well as challenging the amount of payment for negative impacts on the environment. Environmental crimes make up about 1% of the total number of criminal cases considered by the courts, while up to 90% of citizens are condemned under two environmental articles of the Criminal Code of the Russian Federation: illegal logging and illegal extraction of aquatic biological resources. Under other articles of the Criminal Code, only isolated cases of initiation of criminal cases are recorded. This means a high latency of environmental crimes and weak work of law enforcement agencies.

In order to improve law enforcement practice in environmental cases, the Supreme Court of the Russian Federation periodically adopts resolutions of the Plenums,² explaining the application of certain norms of environmental law,

¹ [Supreme Court of the Russian Federation. Reviews of media materials.](#)

² Resolution of the Plenum of the Supreme Court of the Russian Federation of November 30, 2017 No. 49 “On some issues of application of legislation on compensation for damage caused to the environment”. In: Reference legal system “Consultant Plus” (accessed January 31, 2024).

and also publishes reviews of judicial practice in environmental cases.³ An analysis of judicial practice in environmental cases allows us to conclude that for some categories of cases there are only isolated court decisions (for example, on compensation for harm to the health of citizens caused by an environmental offense), and for certain categories of cases there are none at all (for example, those related to the consequences climate change). One of the options for increasing the efficiency of consideration of environmental cases by courts could be the creation of specialized environmental courts (Solntsev et al., 2013) (by analogy with the Court for Intellectual Rights in the system of arbitration courts).

3. SOCIOLOGICAL METHODS FOR ASSESSING THE EFFECTIVENESS OF LAW AND ORDER

Since the category of environmental legal order is evaluative (that is, the clear parameters of it are not defined by law), mathematical or other methods of the exact sciences are not suitable for determining the orderliness of environmental relations by legal means. Statistics can provide quantitative material for analysis (for example, the increase or decrease in the number of environmental cases considered by the courts), but these methods will not tell us anything about the qualitative assessment of environmental legislation and the practice of its application. Specially trained experts can give such an assessment (and they are members of public councils under most environmental authorities), but the greatest interest here is the opinion of the most important recipient of the work of all three branches of government - Russian citizens. Conducting sociological surveys among them makes it possible to establish the relationship between the real and ideal legal order, identify the degree to which the state has achieved environmental goals, to assess the quality of legislation, the work of environmental management bodies and the effectiveness of the judicial system. Citizens' assessment of the work of the three branches of government to solve environmental problems through sociological methods will allow environmental authorities to receive feedback and adjust the main directions of environmental policy, measures of environmental education, upbringing and enlightenment. Without the technical ability to make such measurements of public opinion throughout the country, we conducted a sociological survey on the perception of environmental law and order problems among 1st-4th year undergraduate students of the Faculty of Economics and Law of the Orenburg State Agrarian University (age 18-21 years) in 2024.

³ Review of judicial practice on the application of environmental legislation. Approved by the Presidium of the Supreme Court of the Russian Federation on June 24, 2022. In: Reference legal system “Consultant Plus” (accessed January 31, 2024).

In order to most fully take into account the opinions of students, the test questions included both ready-made answers and left the opportunity for students to express their own opinions. The exact wording of the questions and the number (percentage) of responses to them are indicated in Table № 1, and these results indicate the following. Only about half of the students clearly understand what environmental law is (the rest chose related legal categories as an answer); a bit more than half of the students rate the work of representative and executive government bodies in the field of environmental protection as "good and excellent," which is an unexpectedly high figure; the assessment of the effectiveness of the courts' protection of citizens' environmental rights turned out to be much higher than the assessment of the work of other branches of government (67%); only 9-15% of respondents do not evaluate the work of government authorities satisfactorily, which indicates the trust of young people in the work of state environmental authorities.

Students are interested in issues of ensuring environmental law and order, and for the most part they correctly name the most pressing environmental problem in Russia - waste management. It is noteworthy that despite the high assessment of the work of federal and regional environmental authorities, 76% of respondents either encountered problems in obtaining environmental information or do not know where and how it can be obtained. When choosing means to improve the environmental situation, only 24% of students consider it necessary to adopt new laws, and 59% propose increasing the efficiency of environmental authorities by tightening measures of legal liability for environmental violations. It should be noted that only 64% of students correctly named the main environmental law of the Russian Federation - this can be explained by the fact that 1st-2nd year students have not yet studied environmental law. Finally, almost all students (95%) want to personally participate in nature conservation and study in more depth legal measures for its protection. Thus, if the survey were conducted by environmental authorities, they could not only find out the assessment of their work, but also learn about the problem of obtaining environmental information in order to correct the situation.

4. CONCLUSION

The environmental and legal categories existing in Russian science and legislation indicate the purpose and means (methods) of environmental protection, but they do not answer the question of how effective the legislation of the Russian Federation and the practice of its application are. To solve this problem, Russia uses the category "law and order," which has no direct analogues in most countries of the world. A particular type of legal order is the

environmental legal order, which reflects the effectiveness of legislation and the practice of its application in one field of social relations - environmental. Despite the development of doctrinal studies of the legal order in general, the environmental legal order in the Russian legal doctrine is poorly developed. Our contribution to the development of this legal category lies, firstly, in a systematic approach to the creation of the concept of environmental law and order, which currently exists only in the form of a number of scattered publications, the justification of its elements, and the implementation of the first practical steps to implement this concept (by conducting a survey of students). Secondly, it is in substantiating the inter scientific nature of the environmental legal order, the need for participation in solving this doctrinal problem not only of lawyers and legal methods of scientific knowledge, but also of the achievements of sociology. Further development of the theory of environmental law and order will allow all three branches of government to understand better the state of environmental legislation, the effective work of environmental management bodies, and the problems of applying environmental legal norms by the judiciary. The implementation of this concept will make it possible to solve one of the most painful problems in Russia in the sphere of interaction between the state and society - to establish public dialogue, take into account the opinion of the population more widely, and involve the public in solving environmental issues.

In global environmental and legal science, the category "ecological legal order" is not used due to the peculiarities of the historical development of European, American and other legal systems, however, the approaches and criteria that we formulated for assessing the regulatory impact of environmental legislation and the practice of its application can represent a contribution to the global processes of studying ways and methods to improve the effectiveness of environmental legislation and its application. This conclusion is based on the fact that the idea of legal order is universal in nature and is compatible with any type of legal comprehension, although each of them has its own specifics.

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Annex I: The results of the sociological research

N	Question	Answer options	Number of responses	%
1	What should be understood by environmental law and order?	a) a set of components of the natural environment, natural and natural-anthropogenic objects, as well as anthropogenic objects	5	5
		b) activities of state authorities and local self-government, legal entities and individuals, aimed at preserving and restoring the natural environment, rational use of natural resources	26	26
		c) the state of social relations regulated by law, in which problems in the sphere of interaction between nature and society are legislatively solved, a multi-level system of environmental management bodies is created, and effective judicial protection of environmental rights and freedoms is ensured	47	47
		d) the state of protection of the natural environment and vital human interests from the possible negative impact of economic and other activities, natural and man-made emergencies	22	22
2	How do you assess the effectiveness	a) excellent	14	14
		b) good	45	45
		c) satisfactory	32	32

	of the work of federal executive authorities in the field of environmental protection?	d) unsatisfactory	9	9
3	How do you assess the effectiveness of the executive authorities of the Orenburg region in the field of nature conservation?	a) excellent	15	15
		b) good	37	37
		c) satisfactory	33	33
		d) unsatisfactory	15	15
4	How do you assess the work of the State Duma of the Federal Assembly of the Russian Federation in solving the country's environmental problems?	a) excellent	15	15
		b) good	36	36
		c) satisfactory	38	38
		d) unsatisfactory	11	11
5	How do you assess the effectiveness of Russian courts protecting the environmental rights of citizens?	a) excellent	18	18
		b) good	49	49
		c) satisfactory	27	27
		d) unsatisfactory	6	6
6	Name one of the most pressing environmental	a) management of production and consumption waste	41	41
		b) air pollution	39	39

	problems for the Orenburg region	c) desertification and soil pollution	18	18
		d) your version: no problem, pollution of the Urals	2	2
7	How do you assess your level of environmental information availability?	a) I have full knowledge of the state of the environment in Russia and the Orenburg region	15	15
		b) I have encountered problems in obtaining environmental information from government authorities	40	40
		c) I would like to receive such information, but I don't know which government authorities I should contact	36	36
		d) I am not interested in any environmental information	9	9
8	Are you ready to personally take part in protecting the environment?	a) yes, I am ready to help citizens draw up a statement of claim to protect their environmental rights and freedoms	14	14
		b) yes, I am ready to take part in public, cultural, scientific and other events for nature conservation	37	37
		c) yes, I am ready to take part in clearing springs and planting trees	44	44
		d) no, I am not ready to participate in environmental protection activities	5	5

9	What legal means can be used to improve the state of the environment in the Russian Federation?	a) it is necessary to adopt the Environmental Code of the Russian Federation	24	24
		b) liability for environmental violations should be tightened	59	59
		c) it is necessary to create specialized environmental courts	13	13
		d) your opinion: all of the above; interest of all parties	4	4
10	Is the problem of climate change actual for Russia?	a) yes, and therefore our country actively participates in its solution	34	34
		b) yes, but this problem has not yet found its legal solution	56	56
		c) no, this problem is relevant only for some foreign countries	6	6
		d) no, this problem is far-fetched	4	4
11	What federal law is devoted to the comprehensive regulation of environmental protection issues in the Russian Federation?	a) Federal Law “On Environmental Safety”	22	22
		b) Federal Law “On Environmental Protection”	64	64
		c) Federal Law “On Ensuring Environmental Law and Order”	12	12
		d) Federal Law “On Measures to Reduce Environmental Pollution”	2	2
12	Is it necessary to include additional subjects in the educational process at the Faculty of Law (or increase	a) yes, it is necessary to include an additional subject for a more in-depth study of practical actions for the legal protection of nature	42	42
		b) yes, it is necessary to increase teaching hours in	28	28

	the number of hours in existing ones) for a more in-depth study of environmental issues?	the discipline of environmental law at undergraduate level		
		c) no, additional hours and subjects are not needed, however, I would take part in the work of a scientific society on environmental law issues	15	15
		d) no, the existing volume of educational information is quite sufficient	5	5