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FEATURES OF CRIMINAL LEGISLATION AIMED AT COMBATING ENVIRONMENTAL CRIMES

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In a scientific article examines the sources of protection from environmental criminal offenses, regulation of environmental relations, related features of criminal law, criminal law norms that protect environmental relations, each of which is considered individually.

Keywords: environment, corpus delicti, environmental crime, legal entities.

As the main source of protection against environmental criminal offenses, we call the Criminal Code of the Republic of Kazakhstan No. 226-V of the law of the Republic of Kazakhstan dated July 3, 2014. Criminal law has characteristic features:

1) it is based on the Constitution of the Republic of Kazakhstan and generally recognized principles and norms of international law;

2) in case of contradictions in the laws in the protection against environmental criminal offenses, the provisions of the Constitution are applied;

3) norms recognized as unconstitutional that infringe on the rights and freedoms, legitimate interests of a person and a citizen;

4) international treaties ratified by the Republic of Kazakhstan regulating environmental relations have priority over the National Criminal Law;

5) other laws providing for criminal liability are subject to application only after they are included in the Criminal Code;

6) normative resolutions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan are an integral part of the criminal law [3, p. 12].

The norms of Chapter 13 of the Criminal Code of the Republic of Kazakhstan as the main source of protection against environmental criminal offenses perform several functions:

– insurance, that is, insures against the commission of an environmental offense by the possibility of imposing on a person the types of penalties specified in the sanctions of articles

324-343 for committing an act recognized as an environmental criminal offense. This feature allows you to carry out three-way activities simultaneously:

a) prevention of an environmental criminal offense-prevents an environmental criminal offense by prohibiting it under threat of punishment;

b) environmental education-educational impact through early insurance of a person from committing an environmental criminal offense;

b) protection from environmental criminal offense – protection of environmental public relations by educating a person to strictly comply with the requirements of environmental legislation.

– regulation in the event of criminal legal relations related to the commission of an environmental crime, regulates relations between its subjects, restores justice and encourages people to uncompromisingly fight against environmental crime.

The criminality of the act and its punishability are determined by the criminal law in force at the time of the commission of the criminal offense. The current criminal law is a criminal law that has entered into force in accordance with the established procedure, has not been canceled or terminated by another law, has not been changed. The above-mentioned Criminal Code of the Republic of Kazakhstan was adopted by the Parliament of the Republic of Kazakhstan on July 3, 2014 and entered into force on January 1, 2015 in accordance with paragraph 1 of Article 467 of this Code . In

accordance with article 6 of the Criminal Code of the Republic of Kazakhstan, it is provided that the action has the retroactive effect of a law that eliminates crime or punishability, mitigates responsibility or punishment, or otherwise improves the situation of a person who has committed an environmental criminal offense. This applies to persons who committed an act recognized as a criminal offense before the law was put into effect, as well as persons who are serving a sentence, have served a sentence, but have a criminal record. An individual who has committed an environmental criminal offense on the territory of the Republic of Kazakhstan (regardless of the presence of a citizen of the Republic of Kazakhstan, a foreign citizen, or a stateless person) is liable in accordance with the Criminal Code of the Republic of Kazakhstan. An environmental criminal offense initiated, continued or ended on the territory of the Republic of Kazakhstan is recognized as committed on the territory of Kazakhstan. The territory of the Republic of Kazakhstan includes the land and its subsoil, air space, and water space defined by the state border. Also, a person who has committed an environmental criminal offense on the territory of a vessel registered in a water or air port of the Republic of Kazakhstan, located outside the territory of our state, in open air or water space, is held liable under the Criminal Code of the Republic of Kazakhstan, unless otherwise provided by international treaties recognized by Kazakhstan [4, p. 32].

The above-mentioned Criminal Code of the Republic of Kazakhstan states that the criminal liability of diplomatic representatives of foreign States and other persons enjoying immunity is resolved in accordance with the norms of international law.

According to the content, norms on environmental criminal offenses can be divided into the following types:

1. Declarative norms – contain provisions of a programmatic nature that define the functions and tasks of regulating specific relations. A declarative norm is a legal structure whose content contains the goals (ideas) set for it. For example, paragraph 1 of Article 2 of the Criminal Code of the Republic of Kazakhstan states that « the objectives of this code are:

rights, freedoms and legitimate interests of a person and citizen, property, rights and legitimate interests of organizations, public order and security, and the environment, Protection of the Constitution and territorial integrity of the Republic of Kazakhstan, legally protected interests of society and the state from socially dangerous encroachments, preservation of peace and security of humanity, as well as prevention of criminal offenses.»it shows. According to this, one of the goals of the country's criminal legislation is to protect against environmental criminal offenses. That is, the criminal law sets us the task of preventing, preventing and thereby protecting the rights and legitimate interests of people to a favorable environment, regulating relations in the event of an offense. It should be noted that such norms are of a constituent nature. For example, Article 31 of the Constitution of the Republic of Kazakhstan states that «the state aims to protect the environment favorable to human life and health». According to its legal nature, this norm is a declarative norm. It is not difficult to see from the norm that it is dedicated to environmental protection issues. At the same time, if we reveal its content, it means an effective and rational use of natural resources, that is, rational use, which means satisfying the interests of today's humanity, protecting the interests of future generations, considering the environment not only as a necessary resource, but also as the core of human life. Having put forward such ideals in the Basic Law, we have adopted a number of normative legal acts aimed at regulating public relations in the field of the environment on its basis [5, p. 22].

2. Defining (defining) norms – a definition of certain legal phenomena and categories. For example, paragraph 1 of Article 327 of the Criminal Code of the Republic of Kazakhstan indicates «violation of Veterinary rules that led to the spread of epizootics or other serious consequences». The concept of «grave harm» here gives paragraph 4 of Article 3 of the Criminal Code of the Republic of Kazakhstan, according to which «4) grave consequences – the following consequences in cases not specified as signs of a criminal offense provided for by this Code: death of a person; death of two or more persons; suicide

of the victim or his relatives (relatives); causing serious harm to health; causing serious harm to the health of two or more persons; mass illness, infection, radiation or poisoning of people; deterioration of the health of the population and the environment; the occurrence of a man-made or environmental disaster, an environmental emergency; causing major or particularly major damage; abandonment of tasks assigned by the high command; a threat to the security of the state, a disaster or accident; a prolonged decrease in the level of combat readiness and combat capability of military units and subdivisions; abandonment of combat tasks; failure of military equipment; other consequences indicating the severity of the damage caused;». Accordingly, we call this norm the definitive norm, which defines grave consequences. Since most of the norms on environmental criminal offenses provided for in the Criminal Code refer to definitions in other laws in the field of the environment, it is often possible to encounter such definitive norms when working with them [1, p. 55].

3. Reward norms – this encourages them to take certain actions by mitigating their punishment. «Thus, a person brought to justice under Article 341 of the Criminal Code of the Republic of Kazakhstan «« destruction or damage of forests «« in case of voluntary compensation for property damage caused by a criminal offense or restoration of damage, he is not subject to imprisonment.» In accordance with this, subparagraph 1) of Paragraph 1 of Article 55 of the Criminal Code of the Republic of Kazakhstan encourages a person to compensate for the damage caused and encourages the person who committed it with the appointment of a milder form of punishment.

4. Regulatory norms – regulate relations between its subjects in the event of a criminal legal relationship in connection with the commission of an environmental criminal offense, restore justice. The features of regulatory norms should be understood as the power-domineering nature. That is, in the event of an environmental criminal offense, the relations between the subjects are regulated by the norms of the Criminal Procedure Code of the Republic of Kazakhstan. However, in this case, the imposition of punishment is carried out taking into account the norms provided for in Chapter 13 of the

Criminal Code of the Republic of Kazakhstan, as well as in the general part.

5. The protection standards provide – for measures of state coercion applied for violation of legal prohibitions. In addition, these norms consider the state and procedure for exemption from criminal liability and punishment. For example, in accordance with article 71 of the Criminal Code of the Republic of Kazakhstan, a person is released from criminal liability due to the expiration of the statute of limitations.

Both regulatory norms and protective norms are aimed at implementing the two functions of law, such as regulation and protection.

Depending on the method of legal regulation, the norms are divided into dispositive and imperative. However, almost all norms of an environmental criminal offense are mandatory norms. Imperative norms are norms that have a rigid, power-representative character, requiring that the established limits of behavior are not exceeded [2, p. 28].

The structure of the norms of environmental criminal offenses consists only of 2 elements of the structure of the legal norm, such as disposition and sanction.

The dispositions of the norms of environmental criminal offenses are descriptive (descriptive) and blank dispositions. Descriptive (descriptive) disposition describes actions (actions or omissions) that are recognized as environmental criminal offenses. For example, in Article 336 of the Criminal Code of the Republic of Kazakhstan «violation of the rules for the protection of fish stocks» – «violation of the rules for the protection of fish stocks in the construction of bridges, dams, the implementation of explosive or other works, the operation of water intake structures or pumping mechanisms, if these actions have led or may lead to the mass death of fish or other aquatic animals». The explosive norm also refers to regulations, laws that establish the procedure for the construction of a bridge, dam, explosion in water, dam or operation of pumping mechanisms. Therefore, the norms of environmental criminal offenses almost all consist of blank dispositions. That is, these criminal offenses encroach on public relations in the field of the environment protected by criminal law, and these relations, in turn, are regulated by other laws and bylaws. Therefore, when

differentiating the composition of environmental criminal offenses, it is differentiated with reference to the laws regulating public relations in the field of the environment.

The sanction of the norms of an environmental criminal offense is relatively definite and alternative (alternative). In relatively-defined sanctions, only one type of punishment is specified, and its minimum and maximum limits are determined. Thus, part 3 of Article 343 of the Criminal Code of the Republic of Kazakhstan establishes a penalty of imprisonment for a term of two to seven years. The penalty provided for here is defined as imprisonment, the minimum limit of which is two years, the upper limit is

seven years. An alternative (alternative) sanction provides for several types of punishment imposed on public relations protected by criminal law for committing an encroachment on certain socially dangerous, guilty actions (Action or inaction). For example, it is under Part 1 of Article 343 of the Criminal Code of the Republic of Kazakhstan that such types of punishment as a fine, correctional labor, community service, and arrest are provided for committing a criminal offense. The judge appoints one of these punishments taking into account the nature and degree of public danger of the committed criminal offense, the circumstances of its commission and the characteristics of the guilty person.

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ОСОБЕННОСТИ УГОЛОВНОГО ЗАКОНОДАТЕЛЬСТВА НАПРАВЛЕННОГО НА БОРЬБУ С ЭКОЛОГИЧЕСКИМИ ПРЕСТУПЛЕНИЯМИ

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В научной статье рассматриваются источники защиты от экологических уголовных правонарушений, регулирование экологических отношений, связанные с ними особенности уголовного права, нормы уголовного права, защищающие экологические отношения, каждая из которых рассматривается в отдельности.

Ключевые слова: окружающая среда, состав преступления, экологическая преступность, юридические лица.