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CRIMES IN THE SPHERE OF ECOLOGY: GENERAL CHARACTERISTICS

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Summary

The article provides an analysis of theoretical approaches to the definition of environmental crime. Taking into account the general concept of a crime enshrined in part 1 of article 14 of the Criminal Code of the Republic of Uzbekistan and the list of objects of environmental protection given in the law of the Republic of Uzbekistan "On Nature Protection, a custom one has been developed, which, in the author's opinion, is the most optimal and takes into account all signs of crimes in the field of ecology.

Key words

Environment, crimes, ecological crimes, law, responsibility.

The Criminal Code of the Republic of Uzbekistan for the first time united the previously disparate elements of environmental crimes, however, the criminal law itself does not give the very concept of "environmental crime". In the current Law "On Environmental Protection", as well as in the Criminal Code, there is no definition of an environmental crime. Meanwhile, in order to delineate environmental crimes from related offenses and further study the problem of environmental crime, it is necessary to determine the main features of environmental crime and derive its concept.

The definition of environmental crimes in the criminal law, and their codification is significant for achieving many goals. A correct understanding of environmental crime serves as the methodological basis for the rule-making process. Outside of this definition of the essence of a public act, it is impossible to build sanctions, determine the goals of the criminal law norm, the scope and tasks of preventive work.

Evaluation of the effectiveness of criminal liability and the applied criminal law sanctions is inevitably associated with an analysis of illegal behavior, a clear understanding of its model.

In the literature, quite close attention was paid to the concept of "environmental crime". In the works of O.L. Dubovik [1] E.N. Zhevlakov [2], N.A. Lopashenko [3] A.P. Korotkov [4], Yu.I. Lyapunov [5], M.I. Verevicheva[6], I.M.Tyazhkov [7] and other authors characterized various approaches to it, proposed formulations, described features. Since among scientists opinions about the concept of "environmental crimes" are very different, their definitions are not the same.

Thus, B. V. Yatselenko defines environmental crimes as "... socially dangerous acts that encroach on social relations in order to preserve a favorable natural environment, rational use of its resources and ensure the environmental safety of the population" [8].

A. I. Chuchaev writes that environmental crimes are ... a socially dangerous guilty act that encroaches on social relations, ensuring the preservation of a favorable natural environment for normal human life, the rational use of its resources and the environmental safety of the population "[9].

E. N. Zhevlakov under the definition of "environmental crimes" understands socially dangerous, provided for by criminal law, guilty, punishable acts that encroach on social relations to preserve a qualitatively favorable environment, rational use of its resources and ensure the environmental safety of the population[10].

E.V. Vinogradova, in turn, criticizes the concept proposed by E.N. Zhevlakov, justifying the inconsistency of this definition by the fact that the fact that an environmental crime in general (social danger and wrongfulness) cannot distinguish it from the group of other crimes; besides, "the protection of a qualitatively favorable environment does not imply the protection of all nature", then "the rational use of natural resources determines property relations, and not ecological relations". At the same time, E.V. Vinogradova believes that "an environmental crime is a socially dangerous act punishable by criminal law, encroaching on environmental safety and environmental law and order and causing significant harm to the natural environment or creating a threat of its onset"[11].

According to the author, this concept of environmental crimes does not fully reflect all their signs and specifics, since the concept of "natural environment" too narrows the effect of the sanctions of the articles of the Criminal Code. In this case, it would be more fair to use the concept of "environment", which includes both the natural environment and anthropogenic objects, the safety of which should also be ensured in order to reduce their impact on humans.

According to VL Kudryavtsev, "environmental crimes are socially dangerous acts encroaching on the environment as a combination of components of the natural environment, natural and natural-anthropogenic objects, as well as anthropogenic objects"[12].

I.V. Lavygina gives the following definition: an environmental crime is a crime provided for by the Criminal Code that violates the rules of nature protection by negatively impacting the natural environment, provided that these acts have caused significant harm to protected relations[13.16].

Petrov V. V. believes that environmental crimes are socially dangerous acts that encroach on the established environmental legal order, causing harm to the natural environment, human health or creating a threat of such infliction[14.89].

O.L. Dubovik proposes to understand environmental crimes as "a guilty socially dangerous act (action or inaction) provided for by criminal law and prohibited by it under the threat of punishment that encroaches on the environment and its components, the rational use and protection of which ensures optimal human life, as well as on the environmental safety of the population and territories, and consisting in the direct illegal use of natural objects (or illegal impact on them) as a social value, leading to negative changes in the state and quality of the environment"[15]. In our opinion, this definition most fully reflects all the specifics of environmental crimes and it is most convenient to use in practice.

Thus, based on the analysis of the scientific literature and the legislative framework of the Republic of Uzbekistan in the environmental sphere, in our opinion, in order to form the concept of "environmental crimes", it is necessary to be guided by the general concept of a crime existing in the criminal law doctrine and the provisions of the current legislation on nature protection.

According to the Law of the Republic of Uzbekistan "On Nature Protection" dated December 9, 1992, No. 754-XII, "Protected natural areas include state reserves, complex (landscape) reserves, natural parks, state natural monuments, territories for conservation, reproduction and restoration of individual natural objects and complexes, protected landscapes, territories for the management of individual natural resources, state biosphere reserves, national parks, interstate protected natural areas. We believe that causing harm or creating a threat of causing precisely these objects is an encroachment on the components of the environment.

Taking into account the general concept of a crime enshrined in Part 1 of Article 14 of the Criminal Code of the Republic of Uzbekistan and the list of environmental protection objects given in the Law of the Republic of Uzbekistan "On Nature Protection", we propose a new definition of environmental crimes: "Environmental crimes are culpably committed socially dangerous acts prohibited by criminal law under threat of punishment, causing harm or capable of creating a threat of harm to objects of environmental protection and/or human health".\

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