

Organizational and Legal Aspects of the Implementation of State Environmental Control by the Executive Authorities of the Republic

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Abstract: This article discusses the concept of state environmental control, its main tasks and tasks, types of state environmental control, the views of domestic and foreign legal scholars on the need for state control in the field of environmental protection and rational nature management, as well as environmental monitoring. Statistical data on existing shortcomings in the implementation of environmental control, the circle of subjects of state environmental control, as well as the system of specially authorised state bodies exercising state environmental control, and the scope of their analysis. The issue of optimizing the system of specially authorized state bodies exercising state environmental control in the Republic of Uzbekistan is also highlighted, based on the experience of foreign countries. Simultaneously, substantiated proposals have been developed to improve the system of specially authorized government bodies exercising state environmental control. In particular, in accordance with the legislation in force in the Russian Federation and the Republic of Kazakhstan, the issue of transferring the powers to exercise state environmental control in our country to a single state body was analyzed.

Keywords: state environmental control, specially authorised state bodies, environment, moratorium, subjects of environmental control, users of natural resources..

Intrudocion

Consistent work is being carried out in our country in the field of state control over the protection of the natural environment, the rational use of natural resources, and the improvement of the sanitary and environmental condition. In particular, the President of the Republic of Uzbekistan on 30 October 2019 Decree No. PD-5863 approved the "Concept of environmental protection of the Republic of Uzbekistan until 2030". One of the main tasks of the Concept is to improve state control in the field of environmental protection and rational nature management, as well as the system of environmental monitoring. Additionally, numerous new provisions have been introduced in accordance with Presidential Decree No. PP-4845 of 29 September 2020 "On measures to further improve the system for handling household and construction waste". According to him, from 1 January 2021:

Photos and videos of violations in the field of ecology, environmental protection and nature management, sent by the population to the special information system of the State Committee for Ecology on the Internet, will be considered in the manner prescribed by the Code of Administrative Responsibility;

Those who sent photos and videos of the offence will be rewarded with a monetary reward in the amount of 15% of the fine imposed on the violator;

at the request of the territorial bodies of the State Committee for Ecology, law enforcement agencies conducted identification of offenders on sent photos and videos of violations;

Disclosure of information about persons who provided photos, videos and reports of an offence is not allowed.

Despite the measures taken, the number of environmental offences in our country has not decreased. For example, the Decree of the President of the Russian Federation No. PF-5863 dated 30 October 2019 introduced a moratorium on the felling of valuable tree and shrub species that are excluded in the state forest fund from 1 November 2019 to 31 December 2020. However, according to Internet sources, during the moratorium on deforestation in Uzbekistan, 24,236 applications for deforestation were received from individuals and legal entities in Tashkent alone. More than 15.5 thousand trees were saved during the study. For 11 months of the current year, 307 facts of illegal logging were revealed. Of these, 297 administrative offences, the perpetrators were fined 428 million soums, and the total amount of damage amounted to 1 billion 305 million soums.

Furthermore, in 9 cases, a criminal case was initiated on causing harm to nature, which is 300 times the minimum wage, or more than 67 million soums. Relevant documents have been submitted to the prosecutor's office. Damage to nature amounted to 1 billion 881 thousand soums [1]. If we take these figures on a national scale, then the scale of damage to nature will be even greater. The role of state environmental control in preventing such violations, preserving nature, and increasing the responsibility of nature users to the environment is invaluable.

Materials and methods

The study used such scientific methods as scientific, objective, comparative, comparative legal, induction and deduction, as well as other methods in legal sciences.

Research results

The activities of the state in the field of nature management, as well as the implementation of environmental control are important issues in solving existing environmental problems in the country.

According to T.I.Makarova, environmental management is defined as environmental protection as the activity of the state for the rational use of natural resources, the organisation of reproduction, environmental protection, the achievement of environmental safety, as well as ensuring the rule of law and constitutional guarantees for citizens [2, p. 160].

Surkova I.S. considers nature management (management in the field of use and protection of natural objects) as an organisational and legal activity of executive bodies of state power and local governments aimed at the rational use of natural resources and optimisation of environmental protection [3, p. 102].

Without rejecting the views of T.I. Makarova and I.S. Surkova, we can say that the role of environmental control in the implementation of state environmental management is invaluable.

Competent public authorities can ensure compliance with environmental legislation through environmental control. Simultaneously, it not only ensures compliance with the law but also restricts activities that cause or may harm the environment. Therefore, the assessment of the level of environmental pollution in the Decree of the President of the Republic of Uzbekistan dated 28 January 2022 "On the Development Strategy of New Uzbekistan for 2022–2026" No. PD-60 states environmental control with constant information, monitoring of the state of pollution sources and their impact on the environment.

In this regard, it is appropriate to dwell on the concept of environmental control. Note that the concept of environmental control is defined by some domestic and foreign legal scholars. In particular, according to Sh. Fayziev, to monitor compliance with environmental safety requirements and take strict measures to ensure strict compliance with these requirements, as well as measures aimed at eliminating possible violations (based on comprehensive and systematic control)" [4, p. 195].

Y.O. Juraev also noted that “environmental control is a check of compliance by enterprises, institutions, organisations, ministries, state committees, departments and citizens with requirements for environmental protection, rational use of natural resources and environmental safety. and monitoring of the state of the environment, performing environmental expertise, as well as the implementation of other organisational and legal measures in this area” [5, p. 8]. Meanwhile According to L.V. Chkhutiashvili, environmental control, as a legal form of environmental protection, is a system of actions to ensure compliance with environmental legislation [6, p. 156].

According to Russian solicitor O. Sarkisov, the environmental control system consists of state services for monitoring the state of the environment, state, industrial and public control. Environmental control is one of the most common organisational and legal tools for nature management. It is conducted out at all stages of the use of natural resources and the impact on the environment. It employs many bodies and individuals that differ in their status, affiliation, methods of application and scope of authority. Thus, some entities exercise only control over the observance and execution of environmental legislation, while others are authorised to exercise control over environmental management.

State environmental control is carried out on behalf of the state by specially authorised bodies and officials. It is non-departmental and departmental in nature and is a function of the state environmental agency, to which, if necessary, administrative enforcement measures are applied (suspension of activities, deprivation of the right to use natural resources) fines and other administrative penalties in the manner prescribed by law).

Depending on the stage of the controlled activity, preventive and current controls are divided into general and special types depending on the subject. As mentioned above, general environmental control is carried out by the President of the Russian Federation, the Government of the Russian Federation and other entities endowed with general or special powers. Special control is carried out by authorised bodies in the field of environmental protection and their officials [7, p. 117].

According to S.A. Balashenko, the objects of environmental control are the state and changes in the natural environment; the work of ministries and other state bodies on the implementation of environmental protection measures; activities of enterprises and citizens to comply with environmental legislation [8, p. 164].

According to Gorkovenko, the environmental control system consists of state services for monitoring the state of the environment, state, industrial and public control [9, p. 3].

Depending on the stage of control, preventive, current and final environmental controls are distinguished [10, p. 137].

Summarising the views of the above legal scholars, we can say that environmental control is one of the main control functions of the state, aimed at protecting the environment, identifying and preventing violations in the field of ecology. Control in the field of environmental protection and rational use of natural resources are also a key means of ensuring compliance with the requirements of environmental legislation.

As mentioned above, environmental control plays an important role in the public administration systems in the field of nature protection. Environmental control can be viewed from 2 points of view. First, as a function of environmental protection management. In this sense, this is an independent type of activity, the content of which involves the collection, processing, evaluation and transmission of information about managed objects for a given purpose. Secondly, it is a way to ensure the legality of nature management as a guarantee of the implementation of environmental protection and legal measures regulating them. [10, p. 153].

Identification of subjects of environmental control is necessary before analyzing the activities of specially authorised state bodies in the field of environmental control. According to the Law of the Republic of Uzbekistan “On Environmental Control”, the subjects of environmental control in the country today are

- Cabinet of Ministers of the Republic of Uzbekistan;
- especially authorised state bodies;
- local self-government bodies;
- bodies of state and economic management;
- business entities;
- self-governing bodies of citizens;
- non-governmental non-profit organisations;
- Citizens.

As you can see, according to our legislation, the circle of subjects of environmental control is very wide.

Professor Sh.Kh. Fayziev noted that the general competent state authorities in the field of environmental protection and nature management, firstly, determine the general mandatory environmental standards and requirements, and secondly, conduct management activities to ensure compliance with environmental legislation by other entities, in thirdly, they coordinate the activities of state administration bodies, as well as public organisations and citizens.

Government bodies, endowed with special powers, play an important role in the administrative and legal mechanisms of state environmental policy [10, p. 182].

Therefore, in our article, we considered it necessary to analyze only the activities of specially authorised state bodies in the field of environmental control. Currently, there are 8 specially authorised state bodies for environmental supervision in the country, a list of which and the scope of control can be seen in the table below.

№	Competent authority	Spheres of environmental control
1.	State Committee of the Republic of Uzbekistan for Ecology and Environmental Protection	in the field of environmental protection and rational use of natural resources, except from control over the areas provided for in paragraphs 3 to nine of this part
2.	Ministry of Health of the Republic of Uzbekistan	Pollution of the environment by radioactive, chemical, biological substances, drinking water supply, harmful effects of physical factors on the atmosphere
3.	State Committee for Industrial Safety of the Republic of Uzbekistan	on compliance with industrial safety, radiation and nuclear safety, safe operation of subsoil
4.	Ministry of Internal Affairs of the Republic of Uzbekistan	on air pollution from the use of vehicles
5.	Ministry of Water Resources of the Republic of Uzbekistan	on the use and consumption of water from artificial reservoirs
6.	State Plant Quarantine Inspectorate under the Cabinet of Ministers of the Republic	compliance with state quarantine rules for protecting flora

	of Uzbekistan	
7.	State Committee for Veterinary Medicine and Livestock Development of the Republic of Uzbekistan	compliance with veterinary, veterinary and sanitary rules and norms for protecting wildlife
8.	Ministry of Agriculture of the Republic of Uzbekistan	In the rational use and protection of land, bar land pollution by production waste and other waste, radioactive, chemical, biological substances and sewage

Each of these bodies, within its competence, exercises environmental control over various objects. In our opinion, there are too many specially authorised state bodies for environmental control. According to N. V. Popov and S. Rodchenko, state environmental control in the Russian Federation is divided into federal and territorial types [12, p. 77]. However, in many foreign countries, environmental control is carried out by one state body. In particular, in accordance with paragraph 4 of the Regulation “On Federal State Environmental Supervision”, approved by the Decree of the Government of the Russian Federation of 30 June 2021 No. 1096 [13].

In accordance with Article 177 of the Environmental Code of the Republic of Kazakhstan, state environmental control is carried out by the following officials appointed by the authorised body in the field of environmental protection:

1. Chief State Environmental Inspector of the Republic of Kazakhstan;
2. Deputy Chief State Environmental Inspector of the Republic of Kazakhstan;
3. Senior state environmental inspectors of the Republic of Kazakhstan;
4. state environmental inspectors of the Republic of Kazakhstan;
5. chief state environmental inspectors of regions, cities of republican significance, the capital;
6. large state environmental inspectors of regions, cities of republican significance, the capital;
7. State environmental inspectors of regions, cities of republican significance, the capital.

As you can see, in the Russian Federation and the Republic of Kazakhstan, environmental supervision is the sole body. The transfer of state environmental control to a single body of state administration will allow avoid duplication of powers between different bodies and creating a centralized system of state environmental control. As a result, the full implementation of the control function of the state and the goal of environmental control will be achieved.

According to Professor Sh. Fayziyev, the distribution of state control functions between different state bodies leads to duplication and reduces the effectiveness of state environmental control [14, p. 198]. We fully support this idea and talk about the expediency of entrusting environmental control to a single competent authority. Considering Russian scientist Y. N. Starilov believes that when determining the structure of executive power, it is necessary to consider many factors in building effective public administration: the expediency of creating a particular body under specific economic and political conditions; suitability for its activities in existing conditions; considering new achievements in the field of technology management technologies; mandatory implementation of all important functions of state administration by executive authorities; taking into account the functional and territorial principles of management; the presence of special horizontal links between the governing bodies; exercising the powers of governing bodies only on the basis of laws; developing and approving the organisational structure of each executive power [15].

Having followed along with Yu. N. Starilov, we can say that an in-depth analysis of the above factors in the formation of public administration in the Republic of Uzbekistan is also appropriate.

Conclusion

Based on the above analysis, it can be concluded that the implementation of state environmental control should be transferred to the jurisdiction of a single authorised body - the State Committee for Ecology and Environmental Protection, by revising the powers of state bodies to control environmental control. Here, the problem of staffing can be solved by transferring to the staff of the State Committee for Ecology and Environmental Protection of specialised personnel working in various state bodies, in practise exercising state environmental control. This change will help achieve the goal of environmental control and ensure its effectiveness.

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