

Tiered Approach to the Legal Regulation of International Environmental Safety

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Abstract: This study, based on the analysis of environmental safety theoretical foundations, proposes a tiered approach to its legal regulation. The hypothesis was substantiated that the international ecological safety is one of the most important components of international security. The basic approaches are revealed concerning the interpretation of “environmental security” concept as an ultimate objective of environmental protection and as an environmental use principle as well as an independent object of legal protection. The correlation of environmental and other types of international security considered in a dialectical unity is determined. The necessity of a layered approach development concerning the legal regulation of ecological safety is substantiated. This approach includes international, regional and national levels. The idea was developed that the legal regulation of international environmental security improvement should be based on the optimal ratio of international and national impact.

Key words: International law, national law, environmental security, environmental protection, legal regulation levels, international cooperation, environment, principles of law

INTRODUCTION

Scientific and technological progress is a powerful stimulus to the development of world and Russian economy as well as the catalyst for the emergence of environmental threats (the depletion of mineral world reserves, water and biological resources, the presence of ecologically unfavorable regions, the preservation of hazardous activity significant amounts).

In this regard, a full value development of Russian and Foreign scientific and technological complex is difficult to imagine without a proper legal environmental safety. At the present time, the development of an effective legal framework that will allow to create the conditions for the environmental preservation and protection, the elimination of the negative environmental impacts concerning economic activities in terms of society and a state increasing economic activity. Consequently, the environmental law of our time experiences the phase of rapid development and it becoming an international environmental law (Jans and Hans, 2012; Sands and Peel, 2012) at a global level. One of this law functions is the legal support of international environmental security.

MATERIALS AND METHODS

The research findings are formulated with the use of general scientific dialectical cognition method. Also, the

methodological basis of this work includes private methods: formal-logical, systematic and comparative law method.

RESULTS AND DISCUSSION

Now a days environmental security may and must be considered as one of the most important components of international security. During the period of Cold War, the term “security” was synonymous with “national security” which in its turn was the object of protection against military threats. However in recent years, safety is regarded in the other respects, also concerning the environment as environmental safety (Lietzmann and Vest, 1999).

In the context of international relations, this phenomenon is transformed into an international environmental safety (Dodds and Pippard, 2005), the provision of which became the object of activity not only for separate countries but also for international community presented by international organizations. In particular in 2002, the Institute for Environmental Security was established in the Hague with the status of an international non-profit non-governmental organization.

The concept “environmental security” is quite actively used both in national legislation and in international instruments. However, its use in certain acts has its own peculiarities and sometimes they are quite significant. So, such phrases as “ecological safety”

(Hulme, 2009; Dalby, 2002), “environmental protection”, “environmental sphere safety” (Verbickij, 2013), the “ensuring of environmental security” (Brinchuk, 2008) are used as synonymous ones. Besides, various conventions and other international instruments use the term “environmental security” concerning a sufficiently wide field of legal relations and to narrow issues of environment protection and nature management.

We believe it is possible and necessary to interpret the concept of “ecological safety” as an ultimate goal of environmental protection. So, the main mission of the abovementioned Institute for Environmental Security is to make the global environmental security as the basic principle of international politics (Hecker, 2011). At the same time, if protective legal norms targeted at a “limit, a threshold of maximum allowable contamination”, then environmental safety may be considered as an independent subject of legal protection (Kopylov, 2000).

In international environmental law two main approaches are revealed to the interpretation of “environmental security” term. First of all, environmental safety is considered as the condition of a state protection against adverse changes in environment which may cause social conflicts, economic decline, political and social instability. Secondly, the environmental safety is associated with a person security (Terriff, 1997). However, the applicable term has neither universal legal definition, recognized by the international community, nor an unambiguous interpretation in a legal doctrine.

We believe that the concept of a unified international environmental security should be developed taking into account the fundamental approach to the understanding of environmental and international security. For example, in modern terms the issue of the International Criminal Court right to use its special facilities is discussed for international environmental safety (Drumbl, 2000). That is why, there is a problem of a tiered approach creation to the legal regulation of these relations. This issue has been actively discussed in scientific community, but practical (normative) solutions in this area do not have an explicit systematic nature.

Besides, this single system of international security includes the national security of each state as an integral component including internal and environmental safety. Therefore, the legal mechanisms of international ecological safety provision include at least two levels of legal regulation: an international (global one) and a national one. Each of them has its regulation object. An international management level of environmental safety has the processes of the biosphere as a whole and its constituent areas as its object (such as the depletion of the ozone layer, the pollution of oceans, the negative consequences of the greenhouse effect, etc).

At that one should remember that, this security is provided not only through collective joint efforts of international community based on cooperation and the development of a common approach to environmental security achievement, but also by the individual efforts of each state which may be different from the approaches of other countries conceptually. At the same time, it is necessary to take into account the important role of regional organizations. This suggests the need to have another level of legal regulation concerning ecological safety, namely, the regional one. Regional level covers major geographical or economic areas, usually affecting the territories of several countries (e.g., EU, CIS, African Union and other countries).

Thus, on the basis of abovestated facts, we may talk about the development of three levels concerning environmental safety regulation: international, national and regional one. National level, in its turn, depending on the characteristics of a territory and a state form may also include specific sublevels.

Summary: The analysis of some aspects of international environmental safety provision allows us to conclude that this area of activity is associated with global civilization challenges and threats. At that, its legal regulation acts as an important element of the overall mechanism which allows to ensure the development of an individual, some states and the world community as a whole. In this regulation, a special role is played by the interaction of states, their associations and international organizations. Therefore, the selection and the formation of a tiered approach to the legal regulation of international environmental security seems to be justified and productive.

CONCLUSION

Summarizing the above stated, we consider it is possible to formulate the following conclusions:

- International ecological security is an essential and the most important element of international security and it exists in the unity and relationship with its other elements
- Scientific approaches to the definition of “environmental security” (including international one) term are based on the understanding of its ultimate goal on environmental protection and a basic principle of natural resource use and environmental protection

- Current efforts of various states and their groups on the provision of international environmental security constitute several levels of its legal regulation: international, regional and national one, each of which must be integrated into a single system. The need for this integration is obvious, on the basis of global environmental problems.

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