

Class 2 Sources of Environmental Law of the Russian Federation

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1. The concept of sources of environmental law.
2. The constitutional basis for the protection of the environment.
3. Federal Law "On Environmental Protection", a general characteristic.
4. Environmental legislation.
5. Secondary legislation as sources of environmental law.
6. Legal acts of subjects of the Russian Federation, acts of local governments.

1. The concept of sources of environmental law

Sources of environmental law - the normative legal acts containing norms which regulate relations in the sphere of interaction between society and nature.

Custom and the decisions of the courts are not a source of environmental law.

Features of sources of environmental law (legal acts):

- a) an objective form;
- b) approved by the authority;
- c) official publication.

Features of the sources of environmental law :

- They are taken at the federal and regional levels, because it is the joint jurisdiction of the Federation and its subjects;
- The legal norms of environmental law are situated in different branches of law - along with a special legislation on the environment, as in acts of civil, constitutional, business, criminal and other legislation.

According to the legal force:

Federal sources of law:

- The Constitution of the Russian Federation;
- International treaties generally recognized principles and norms of international law;
- Federated contracts;
- Federal constitutional laws;
- Federal laws;
- Acts of the President of the Russian Federation (decrees, orders);
- Acts of the Government of the Russian Federation (regulations and orders);
- Normative legal acts of federal departments and agencies

Regional and local regulations:

- Constitution, statutes of subjects of the Russian Federation;
- Laws of subjects of the Russian Federation;
- Acts of heads of subjects of the Russian Federation;
- Acts of the executive authorities of subjects of the Russian Federation;
- Acts of local self-government.

Local regulations

2. The constitutional basis for the protection of the environment

Constitution plays a major role.

Some provisions of the Constitution directly focus on environmental relations (Art. 9, 36, 42, 58, 72):

- "land and other natural resources are used and protected in the Russian Federation as the basis of life and activity of the people living in the area."
- a multitude forms of ownership of natural wealth
- a private ownership of land. Owners possess, use and dispose of natural resources freely.

2. The constitutional basis for the protection of the environment

Some provisions of the Constitution directly focus on environmental relations (Art. 9, 36, 42, 58, 72):

- the right of everyone to a favorable environment, reliable information about its condition and to compensation for damage caused to health or property by ecological violations
- the duty of each person to preserve nature and the environment, and care for natural resources

The Constitution has rules that govern environmental relations indirectly (Art. 1, 2, 7, 8, 17-19, 45-48, 57).

- the concept of "decent human life" includes environmental components
- responsibility of officials for concealing the facts and circumstances that pose a threat to life and health
- and others

Issues that are regulated at the level of the state (Article. 71)

- regulation and protection of human and civil rights;
- federal and state property and its management (in relation to natural resources and other objects related to this sphere);
 - establishing the principles of federal policy and federal programs in the field of environmental development of the Russian Federation;
 - nuclear energy, fission materials;
 - production of poisonous substances, drugs and the use thereof;
 - determination of the status and protection of the state borders, territorial waters, air space, the exclusive economic zone and the continental shelf of the Russian Federation.

Subjects of Russia together with the state authorities can address issues (Art. 72):

- possession, use and disposal of land, mineral resources, water and other natural resources;
- delimitation of state property (with respect to natural resources and other objects relevant to the subject field);
- environmental protection and ecological safety;
- specially protected natural territories;
- implementation of measures on combating catastrophes, natural disasters, epidemics, elimination of their consequences;
- land, water, forest legislation, legislation on subsoil and environmental protection;
- protection of native habitat and traditional way of life of small ethnic communities.

3. Federal Law "On Environmental Protection", a general characteristic.

- The **law is the main source** of environmental law in a legal state. All other acts **must comply with the law.**
- The environmental relations shall be governed by the **international treaties of the Russian Federation, the land, water, forestry legislation, the legislation on sub-soil, animal world, other legislation** in the field of environmental protection and use of natural wealth, and to some extent by the **legislation on the sanitary and epidemiological well being of the public and the legislation on health protection.**

Federal Law of 10 January 2002 "On Environmental Protection" (last update 21/07/14)

Old Law of the RSFSR of 19 December 1991 "On Environmental Protection" is no longer valid.

The Federal Law of 10 January 2002 lays down a legal foundation for the state policy in the field of environmental protection.

The Law governs relations in the field of interaction of the society and the nature occurring in economic and other activities.

The Federal Law of 10 January 2002, "On Environmental Protection" contains:

- Chapter I. General Provisions (Articles 1-4)
- Chapter II. The Fundamentals of Environmental Protection Administration (Articles 5-10)
- Chapter III. The Rights and Duties of Citizens, Public and Other Non-Commercial Associations in the Field of Environmental Protection (Articles 11-13)
- Chapter IV. Economic Regulation in the Field of Environmental Protection (Articles 14-18)
- Chapter V. Setting Norms in the Field of Environmental Protection (Articles 19-31)
- Chapter VI. Assessment of Effects on the Environment and Ecological Expert Examination (Articles 32-33)
- Chapter VII. The Environmental Protection Provisions Applicable in the Case of Pursuance of Economic and Other Activities (Articles 34-56)

The Federal Law of 10 January 2002, "On Environmental Protection" contains:

- Chapter VIII. Ecological Disaster Zones, Emergency Situation Zones (Article 57)
- Chapter IX. The Natural Facilities under Special Protection (Articles 58-62)
- Chapter X. The State Environmental Monitoring (State Ecological Monitoring) (Article 63)
- Chapter XI. Control in the Field of Environmental Protection (Ecological Control) (Articles 64-69)
- Chapter XII. Scientific Research in the Field of Environmental Protection (Article 70)
- Chapter XIII. The Fundamentals of Shaping Up an Ecological Culture (Articles 71-74)
- Chapter XIV. Liabilities for a Breach of Environmental Protection Legislation and Settlement of Disputes in the Field of Environmental Protection (Articles 75-80)
- Chapter XV. International Co-Operation in the Field of Environmental Protection (81-82)
- Chapter XVI. Conclusive Provisions (83-84).

The Federal Law of 10 January 2002, "On Environmental Protection" establishes :

- **the basic terms** of environmental law and **the basic principles** of environmental protection,
- **the powers of governmental bodies** of different levels (state, regional, local),
- **the rights and duties** of citizens, public and other non-commercial associations,
- **economic regulation**, including the payment for the negative impact,
- **the principles and conditions of the state support** of activities,
- **norms** for the protection of the environment and the procedure of their setting,

The Federal Law of 10 January 2002, "On Environmental Protection" establishes :

- the **general provisions** in the field of the environmental protection **in case of** location determination, design, construction, modification, commissioning, operation, conservation and demolition of the buildings, houses, structures and other facilities,
- the **special protection** of the natural facilities and other,
- the **tasks and system of state environmental monitoring and state environmental supervision,**
- **research** in the field of environmental protection, **the basics of forming the ecological culture,**
- **liability for environmental offenses, international cooperation**

4. Environmental legislation

3 groups of laws:

- environmental legislation,
- legislation on natural complexes,
- natural resources legislation

Environmental legislation

- Federal Law "On Environmental Protection"
- Federal Law of 23.11.1995 N 174-FZ "On Environmental Assessment"
- Federal Law of 09.01.1996 N 3-FL "On radiation safety of the population"
- Federal Law of 24.06.1998 N 89-FZ "On Production and Consumption Waste" and others

Legislation on natural complexes

- Federal Law of 07.05.2001 N 49-FZ "On territories of traditional nature use of the indigenous peoples of the North, Siberia and Far East of the Russian Federation"
- Federal Law of 01.05.1999 N 94-FZ "On Protection of Lake Baikal"
- Federal Law of 30.11.1995 N 187-FZ "On the continental shelf of the Russian Federation"
- Federal Law of 14.03.1995 N 33-FZ "On Specially Protected Natural Areas"
- Federal Law of 23.02.1995 N 26-FZ "Natural healing resources, health and recreation areas and resorts" and others.

Legislation on natural resources

- Forest Code Of The Russian Federation No. 200-Fz Of December 4, 2006
- Water Code Of The Russian Federation No. 74-Fz Of June 3, 2006
- Land Code Of The Russian Federation No. 136-Fz Of October 25, 2001
- Federal Law of 04.05.1999 No. 96-FZ "On Air Protection"
- Federal Law of 24.04.1995 No. 52-FZ "On Wildlife"
- Law of the Russian Federation of 21.02.1992 No. 2395-1 "On Subsoil" and others.

5. Secondary legislation as sources of environmental law

- **decrees and orders** of the President of the Russian Federation,
- **decrees and orders** of the Government of the Russian Federation, if it is provided in the law or decree of the President, or if it is necessary to perform the functions of the Government
- **decrees, orders, rules, regulations and provisions** of the federal departments and agencies (on the basis and pursuant to the federal laws, acts of the President and the Government, as well as the initiative of the federal executive bodies within their competence)

6. Legal acts of subjects of the Russian Federation, acts of local governments

- Land, water, forest legislation, legislation on mineral resources, environmental protection, as well as legislation on wildlife and legislation on air protection are under the **joint jurisdiction**.
- Regional legal regulation takes into account the **characteristics of the regions**.
- **Different forms of regional regulations:** the constitution (in the republics), the statutes, the codes, the laws. Executive authorities take orders, regulations.

Normative legal acts of the **representative and executive bodies of local self-government** is a source of environmental law, if adopted within the authority:

- providing sanitary welfare of the population,
- planning and development of municipal areas,
- landscaping,
- organization of waste and recycling,
- participation in environmental protection
- and others

Organizations adopt **local general and special regulations.**

General acts: charter, collective agreement, internal working rules, etc.

Special acts: plans of organizational and technical measures for the protection of nature and natural resources management, job descriptions, etc.



Thank you for your attention