

Class 5 Responsibility for violation of environmental legislation of the Russian Federation

Lecturer: Mikhail Sergeevich Permilovski, Docent of the Department of International Law and Comparative Jurisprudence, Higher School of Economics, Management and Law, NARFU

Class 5 Responsibility for violation of environmental legislation of the Russian Federation

1. Concept and general characteristics of responsibility for violation of environmental legislation.
2. Grounds to prosecute.
3. Disciplinary responsibility for violation of environmental legislation.
4. Civil responsibility for violation of environmental legislation.
5. Administrative responsibility for violation of environmental legislation.
6. Criminal responsibility for violations of environmental legislation.

1. Concept and general characteristics of responsibility for violation of environmental legislation

The legal responsibility is the relationship between the state and the infringer on the application of penalty to him.

The essence of the legal responsibility is the adverse effects for the infringer.

Application of legal responsibility is a **way of coercion to fulfill environmental requirements.**

Responsibility has functions:

- to encourage the observance of environmental law;
- to prevent new offenses;
- to compensate for damages in the environment and to compensate for harm to human health;
- to punish environmental crimes.

2. Grounds to prosecute – environmental offence

Environmental offense is unlawful, as a rule, the guilty act (action or inaction), which cause environmental harm or creates a real threat of such harm, or violates other rights and legitimate interests of individuals, society and the state.

Signs of environmental offenses:

1. **behavior** which is expressed in action or omission,
2. **wrongfulness** is a dereliction of duty, clearly established in the act or agreement,
3. **infliction or a real threat of environmental damage** or violation of other legitimate rights and interests,
4. **causal link** between the wrongful conduct and inflicted environmental harm or a real threat of such harm or violation of other legitimate rights and interests,
5. **possible infringers** - people, organizations, officials,

Signs of environmental offenses:

6. **infringer's guilt**, that is the mental attitude of the infringer to his wrongful conduct.

2 forms of guilt:

- 1) **intent (direct or indirect)**, if the infringer predicts the onset of harmful consequences of his behavior and desires or knowingly permits them
- 2) **negligence**, when the infringer foresees the harmful effects of his activities, but expects to avoid them (**presumption**) or does not expect an adverse effect, although he should have and could have foreseen them (**carelessness**).

Types of offenses depending on the nature and severity:

- misconduct (not dangerous, but harmful) - disciplinary, administrative, civil
- crime (socially dangerous offenses specified in the Criminal Code).

Different types of responsibility for environmental offenses: **disciplinary, administrative, civil and criminal.**

3. Disciplinary responsibility for violation of environmental legislation.

Disciplinary responsibility comes for committing misdeeds related to employment, for nonfulfillment or improper fulfillment of the job duties.

It is set out in the Labour Code of the Russian Federation, statutes, internal labor regulations and other acts.

Disciplinary sanctions: observation; reprimand; dismissal and others.

Disciplinary action does not exclude the simultaneous application to the guilty employee stricter forms of liability - administrative, criminal, civil.

4. Civil responsibility for violation of environmental legislation.

- The essence is the responsibility of the infringer to compensate to the victim property or moral damage.
- May occur simultaneously with the disciplinary, administrative or criminal responsibility.
- People since 18 years of age are responsible.
- Harm to the person, organization or property must be compensated by tortfeasor in full.
- Damage to the environment must be refunded in full.
- The law or the contract may establish an obligation to pay compensation in excess of compensation for harm;
- The court may order the defendant (in addition to compensation for harm) to suspend or terminate the activities.

4. Civil responsibility for violation of environmental legislation.

Damages - costs that were produced or should be made to restore the violated right, loss or destruction of property (real damage), as well as lost revenue (loss of profit).

The court may order the guilty person to the execution of duties **physically**, that is, to restore the natural resources and objects out of his capabilities.

Moral damage is a personal physical and mental suffering, also must be compensated.

4. Civil responsibility for violation of environmental legislation.

2 procedures for remedying of environmental damage - extrajudicial and judicial.

An extrajudicial procedure includes:

- voluntary compensation,
- reimbursement by insurance against the risk of environmental damage,
- compensation in the administrative procedure.

Methods of reparation (compensation) of damage to health:

- a) the list of **temporary disability** of the employee in case of illness and a benefit, possible transfer to another job for health reasons;
- b) the registration of the **disability** with subsequent benefits and privileges;
- c) to provide people who suffered from the adverse effects of the environment, **social and economic measures of protection**, benefits and compensation;
- d) **insurance of risk of damage** to health or property from environmental pollution;
- e) **compensation for damage** to health and property by the court.

Judicial procedure

The victim himself, his family, the prosecutor, the authority, the public organization (association), representing the interests of the victim **may apply to the court.**

The victim should substantiate his claims and **to present evidence** of harm to health or property, the causal link



The plaintiff must prove **the size of damage and amount of compensation**

Compensation for the harm caused to the environment

Claims shall be submitted by the prosecutor, public bodies, management of state reserves and national parks, people and organizations that own and use natural resources.

2 ways of compensation - in kind (real) and monetary compensation.

Decision to restore the previous state of natural resources is taken in each case by the court if:

- restoration is objectively possible
- the infringer is able to carry out the necessary work within the optimal time.

Compensation for the harm caused to the environment

The damage is compensated **in money** in accordance with the prescribed fee and the method of calculating the amount of damage.

The fee is a conventional unit of damage assessment considering the cost of maintaining (Forestry, Fishing, Hunting), as well as the need to punish the guilty.

Methodology for calculating damages are used in the case of compensation for harm caused by pollution of water, air, soil.

The damage is considered **at cost** when the fees or calculation methods do not exist.

5. Administrative responsibility for violation of environmental legislation.

Administrative responsibility comes, if the violation of nature are not socially dangerous and do not entail criminal liability.

It is governed by the Code of Administrative Offences of the Russian Federation and regional laws on administrative offenses.

Administrative violations in the field of property, in the field of environmental protection and nature use (Chapter 8, 42 misdeeds) and others.

Night raids against poachers are held in Primorye.



5. Administrative responsibility for violation of environmental legislation.

Administrative fine is a major penalty. Confiscation may be in addition to a fine.

The infringer is still obliged to compensate the harm.

The subjects of administrative responsibility: citizens, officials and organizations. Administrative responsibility of individuals for environmental offenses begins at age 16.

Bodies and officials, who are considering the case: judges, police, state sanitary-epidemiological service, bodies of environmental supervision.



<http://www.1tv.ru/news/crime/269582>

http://redirect.1internet.tv/Video/2014_10/H-D-news-2014_10_13-09_17_02.mp4

6. Criminal responsibility for violations of environmental legislation.

Crime is socially dangerous acts that are prohibited by the Criminal Code, under penalty.

Special environmental crimes set forth in a separate Chapter 26 "Environmental crimes":

- violation of environmental regulations in the production of works, handling hazardous materials and wastes;
- violation of veterinary rules and regulations established to combat plant diseases and pests;
- pollution of waters, the atmosphere, marine environment, violation of the legislation on the continental shelf and exclusive economic zone of the Russian Federation;
 - damage of the earth;
 - violation of the rules of protection and use of mineral resources;
 - illegal cutting of forest plantations, destruction or damage of forest plantations;
 - violation of the protected areas and natural sites;
 - others

Penalties for environmental crimes:

- **fine** is estimated in rubles as a fixed sum or a salary or other income of the convicted person for a certain period;
- **deprivation of the right to occupy certain positions or engage in certain activities** for a certain period of time;
- **compulsory work** - performance by the convicted person free community service in his spare time;
- **remedial work** shall be served at the place of work of the convicted person, with 5 to 20% of earnings transferred to the state;
- **restriction of freedom** is to keep the convicted person in an institution without isolation from society under supervision;
- **arrest** is to keep convicted person in strict isolation from society;
- **imprisonment** for a certain period.



Thank you for your attention