

THE LEGAL PRINCIPLE OF RATIONAL NATURE MANAGEMENT: MODERN CONTEXT


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INTRODUCTION

No one doubts that society has come up to the present moment not only with the baggage of modern knowledge and achievements, but also with the burden of accumulated global and domestic political, economic, social, organizational, environmental and other problems. The search for ways to overcome them, it seems, is no less important task than the further evolution of science and technology. Moreover, these two directions of movement are inconceivable without each other and should be considered in interconnection and organic unity. The current world economy is based on the use of natural resources. At the same time, it (the economy) satisfies human needs in a world of limited resources.

Ideally, of course, we would like to get away from a direct correlation between economic stability and resource consumption. However, it seems that this is objectively impossible, at least in the foreseeable future, given the level of development of science and technology. Economic laws also indicate that the use of natural resources is the basis of any economy, since its primary sector includes industries related to the extraction of raw materials.

Therefore, today it is not the cardinal issue of changing the resource base of the economy that is relevant, but the issue of increasing the rationality of nature management and consumption, that is, achieving such a ratio between the result and the resources used, in which the use of a smaller amount of natural resources will meet the needs of the same level.

It is well known that law mediates most of social relations, among them economic (economic) relations occupy a dominant place, therefore, the rational use of natural resources cannot be achieved without the consolidation of legal means that contribute to this. Therefore, scientific and practical developments in the indicated direction are designed to contribute to the formation of an adequate model of the set goal of a legal mechanism for increasing the rationality of the use of natural resources.

METHODS

The main approach in the study, of course, is the universal systems approach as a methodology of cognition, based on a certain set of theoretical provisions contained in the general theory of systems and constituting its basis. At the present stage of historical development, the systemic approach is characterized by the fact that it has three varieties: complex, structural, holistic. In the study, all three types are used, since only such a position allows a complete and comprehensive study of the object.

Within the framework of an integrated systematic approach, the quantitative ratio of the components of the object under study is assessed, without taking into account their ratio with each other, the completeness of the composition, the ratio of the component to the whole.

The structural systemic approach allows us to study the composition and structure of the legal model for the rational use of natural resources without analyzing the dynamics of legal means, its components and the results of its action. Finally, a holistic systematic approach involves the

study of relations both between the elements of the model, that is, by the legal means proper between themselves and with the result, and between parts and the whole, not only in statics, but also in dynamics.

Analysis and synthesis are universal general research methods. The analysis process makes it possible to single out the legal characteristics of the rationality of the use of natural resources from the legal environment in order to determine their composition, structure, functions, integral characteristics, backbone factors and relationships with the general legal reality. As a result, a general understanding of the legal aspects of rational nature management is formed with an increase in the level of its abstract description, determination of the completeness of the composition and structures, the laws of dynamics and manifestations.

RESULTS AND DISCUSSION

Rational use of natural resources is one of the basic principles of modern environmental law. Moreover, this attitude is shared by most states and the international community. Considering that the totality of natural objects is a global system with its internal interconnections and interdependencies, the main challenges and threats to environmental security are large-scale, one might say, of a global nature. Therefore, the topic of legal regulation of rational nature management has repeatedly become the subject of scientific research in various states.

At the same time, mainly scientists, which is understandable, dwelt on the features of the legal regulation of nature management in the respective states. In addition, their works are devoted either to the legal aspects of nature management as a whole (without specifying its economic aspect), or to individual measures to ensure rational use of natural resources.

So, general legal issues of environmental management are considered in the works of such authors as: Vedder Hans H.B. (2000), Jukka Similä (2002); Winter G. (2004); Onida M. (2006); Mityakina N.M. (MITYAKINA et al., 2019); Sorokoletova M.A. (MITYAKINA et al., 2019); Fedoryaschenko A.S. (MITYAKINA et al., 2019); Gusakova Y.S. (MITYAKINA et al., 2019); Beletskaja A.A. (MITYAKINA et al., 2019).

Best Available Techniques Regulations Reviewed by Amy Sinden (SINDEN, 2014). The works of the following scientists are devoted to the issues of public-private partnership: J. Juis Guasch (GUASCH, 2004); Wendell C. Lawther (WENDELL, LAWOTHER, 2007); Jeffrey N. Buxbaum and Iris N. Ortiz (BUXBAUM, ORTIZ, 2009).

So, the need to ensure rational nature management in the long term is recognized by both the scientific community and the state. It is also an indisputable fact that the main load in the framework of exploitation and consumption of the environment comes from economic entities, for which, as a rule, the use of natural resources is part of entrepreneurial activity.

Therefore, at present, an integrated approach to the legal concept of rational entrepreneurial environmental management is required, that is, an intersectoral view of the legal regulation of not just environmental management, but its business sector from the standpoint of ensuring the rationality of the exploitation of natural resources in the context of sustainable development (RUMYANTSEV et al., 2020).

The concept of sustainable development is reflected, for example, in EU law. The European Commission's Communication on the EU's Sustainable Development Strategy states that sustainable economic growth also includes environmental needs (Commission COM, 2001).

To formulate an adequate definition of rational environmental management, applicable in the business sphere, and propose it for normative consolidation, it is necessary to identify a set of characteristics, criteria, conditions and indicators of rational environmental management.

The term «rational use of natural resources» and its derivatives is known not only to modern legislation and legal science, it was also fixed in the previously existing normative acts and was then analyzed. To characterize the use of natural resources, the terms are sometimes used: «rational use of natural resources», «sustainable use of natural resources», «sustainable use of natural resources» and, apparently, their antipodes - «depletion of natural resources», «irrational use of natural resources».

Summarizing the many doctrinal definitions of rational use of natural resources, it can be stated that the vast majority of scientists agree that rational use of natural resources includes at least two sides: economic (this is the possibility of exploiting nature, its consumption, ensuring sustainable economic growth) and actually ecological (preservation of natural objects, their reproduction, prevention of harm to the environment).

Interesting, debatable and significant for the formulation of the sought concept is the question of the ratio of rational nature management and environmental protection.

A.K. Golichenkov considers the protection of the natural environment, ensuring the ecological safety of humans and other objects, as well as the rational use of natural resources as three different forms of a single whole - ecological activity, the general meaning of which is to achieve and maintain such a quality of the natural environment in which conservation is possible, protection and restoration of the healthy state and integrity of the Earth's ecosystem, ensuring biological diversity, and the impact of its factors ensures human health and his fruitful life in harmony with nature, as well as in the creation of such national models of production and consumption in which the development of natural resources ensures economic growth and sustainable development of society (GOLICHENKOV, 2004).

One should agree with this opinion that the goal of environmental protection is to achieve and maintain the quality of the environment. It seems that it is inappropriate to separate the two component parts of environmental legal relations - nature management and environmental protection; it should be said that environmental protection and rational nature management are two components of one activity.

The goal of rational nature management is not only the consumption of elements of the environment, but also its preservation, which coincides with the ultimate goal of environmental protection activities. Ultimately, the main goal of both anthropogenic activities is a quality environment (TSUKANOVA et al., 2020). We propose not to confuse these concepts (they are by no means synonymous), but to consider them in an indissoluble unity, within the framework of a system of activities, the purpose of which is to preserve the quality of the environment.

So, rational nature management and environmental protection have one common goal - the preservation of the environment and its components and ensuring their quality. But does this mean that the rational use of natural resources cannot have other goals that are not common with nature conservation activities? Why not? If they do not contradict the common goal, then they may well exist. Such own goal, in our opinion, will be the achievement of economic effect. Economic efficiency is an indicator of the level of profitability of an activity, which is determined by comparing the effect and costs. At the same time, both goals of rational environmental management coexist together, intertwine, influence each other, and must be balanced. Therefore, the criteria for the rationality of nature management are of an ecological and economic nature. Rational use of natural resources - it must be economically and environmentally efficient (TURANIN et al., 2019). In this case, the ecological result represents the sum of the avoided environmental damage and environmental benefits (including income or savings from rational use of natural resources). The optimal criterion for the balance of economic and environmental interests is minimum costs and maximum profit with no or minimum residual environmental damage. As for the sustainability of environmental management, it correlates with rationality as a result and a means of achieving it.

If we consider with a high degree of generalization the stability of the development of the state as the movement of a certain system, then it should be remembered that this is the ability to maintain the intended mode of functioning, despite the changing conditions affecting it. The stability of the system is achieved by the stability of its components. Therefore, the sustainability of nature management is one of the foundations of sustainable development of the state. And this sustainability will be maximal if environmental public interests and economic private interests of business are reasonably combined.

CONCLUSIONS

Rational use of the environment should be the main fundamental rule of nature management, that is, in fact, any use of natural resources should be rational. Proceeding from this, and taking into account the above analysis of the relationship between the concepts of «environmental protection» and «rational use of natural resources», it can be stated that environmental protection and nature management are equivalent interconnected and influencing each other elements in a single complexly organized system of environmental activity (which in the legal field is expressed in the relevant environmental legal relationship). Rationality in the economic use of natural resources includes two sides: economic (the possibility of exploiting nature, its consumption, ensuring sustainable economic growth) and strictly ecological (preserving natural objects, their reproduction, preventing harm to the environment). However, both sides coexist together and must be balanced. Rational use of natural resources should be economically and environmentally efficient. The optimal criterion for the balance of economic and environmental interests is the use of a smaller amount of natural resources while meeting the needs of the same level, provided there is no or minimal residual environmental harm. At the same time, the sustainability of nature management is related to its rationality as a result and a means of achieving it.

CONFLICT OF INTEREST

The authors confirm that the information provided in the article does not contain a conflict of interest.

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The legal principle of rational nature management: modern context

O princípio jurídico da gestão racional da natureza: contexto moderno

El principio jurídico de la gestión racional de la naturaleza: contexto moderno

Resumo

O objetivo principal do artigo é considerar as modernas visões jurídicas científicas e práticas sobre o princípio da gestão racional da natureza. Para atender ao objetivo do estudo, utiliza-se a abordagem de sistemas universais como metodologia de cognição. O resumo do artigo inclui a conclusão de que qualquer uso dos recursos naturais deve ser racional, o que implica o uso de menos recursos naturais e ao mesmo tempo atendendo às necessidades do mesmo nível, desde que não haja nenhum ou mínimo dano ambiental residual. Ao final, são feitas algumas recomendações práticas a serem levadas em consideração em futuros estudos relevantes.

Palavras-chave: Gestão racional da natureza. Princípio da gestão da natureza. Gestão da natureza. Uso econômico dos recursos naturais. Exploração dos recursos naturais.

Abstract

The main aim of the article is to consider the modern scientific and practical legal views on the principle of rational nature management. To meet the objective of the study, the universal systems approach as a methodology of cognition is used. The summary of the article includes the conclusion that any use of natural resources should be rational, which implies the use of fewer natural resources while meeting the needs of the same level, provided there is no or minimal residual environmental harm. In the end, some practical recommendations are made to be taken into consideration in the future relevant studies

Keywords: Rational nature management. The principle of nature management. Nature management. Economic use of natural resources. Exploitation of natural resources.

Resumen

El objetivo principal del artículo es considerar los puntos de vista legales científicos y prácticos modernos sobre el principio de gestión racional de la naturaleza. Para cumplir con el objetivo del estudio se utiliza el enfoque de sistemas universales como metodología de la cognición. El resumen del artículo incluye la conclusión de que cualquier uso de los recursos naturales debe ser racional, lo que implica el uso de menos recursos naturales al mismo tiempo que se satisfacen las necesidades del mismo nivel, siempre que no exista o sea mínimo un daño ambiental residual. Al final, se hacen algunas recomendaciones prácticas para ser tenidas en cuenta en los futuros estudios relevantes.

Palabras-clave: Manejo racional de la naturaleza. Principio de manejo de la naturaleza. Manejo de la naturaleza. Uso económico de los recursos naturales. Explotación de los recursos naturales.