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ECONOMIC DAMAGE AS A SIGN OF CONSEQUENCES IN THE NORMS ON ENVIRONMENTAL CRIMES (CHAPTER 26 OF THE CRIMINAL CODE OF THE RUSSIAN FEDERATION)

***Abstract:** this article analyzes the characteristics of the consequences in the norms on environmental crimes, examines the components of economic damage as a sign of the corpus delicti; the authors draw attention to the need for further normative specification of the quantitative content of significant, large and especially large damage (size) as the consequences of environmental crimes.*

***Keywords:** environmental safety, environment, criminal liability, environmental crimes, consequences, economic damage, significant damage, large damage, especially large damage (size).*

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ЭКОНОМИЧЕСКИЙ УЩЕРБ КАК ПРИЗНАК ПОСЛЕДСТВИЙ В НОРМАХ ОБ ЭКОЛОГИЧЕСКИХ ПРЕСТУПЛЕНИЯХ (ГЛ. 26 УК РФ)

***Аннотация:** в данной статье анализируются характеристики последствий в нормах об экологических преступлениях, исследуются составляющие экономического ущерба как признака состава преступления; авторы обращают*

внимание на необходимость дальнейшей нормативной конкретизации количественного содержания значительного, крупного и особо крупного ущерба (размера) как последствий экологических преступлений.

Ключевые слова: *экологическая безопасность, окружающая среда, уголовная ответственность, экологические преступления, последствия, экономический ущерб, значительный ущерб, крупный ущерб, особо крупный ущерб (размер).*

Of the 18 elements of crimes located in Chapter 26 of the Criminal Code of the Russian Federation (hereinafter referred to as the Criminal Code of the Russian Federation), 15 elements are material, that is, they require the presence of consequences from the committed act in order to recognize the last crime. An indication of the consequences in these crimes is essential to determine the type of legal responsibility to which a person is subject for the committed offense. Most of the acts provided for in Chapter 26 of the Criminal Code of the Russian Federation are also provided for by the Code of Administrative Offences of the Russian Federation (hereinafter – the Administrative Code of the Russian Federation).

For example, Article 260 of the Criminal Code of the Russian Federation provides for criminal liability for illegal logging of forest plantations or trees, shrubs, lianas not classified as forest plantations, and administrative liability is provided for similar actions in Article 8.28 of the Administrative Code of the Russian Federation. The damage caused by illegal logging is a criterion for distinguishing criminal and administrative liability. If the act is committed at least in a significant amount, then the person will be brought to criminal responsibility, and if not, then to administrative responsibility.

Chapter 26 of the Criminal Code of the Russian Federation reflects various consequences in their content, from the «classic» for criminal law of causing harm to human health to an environmental crime inherent only (for example, the spread of epidemics or epizootics) [1, с. 28].

It is possible to qualify the consequences of environmental crimes on the following grounds:

By the external manifestation of the consequences: 1. actual occurrence of harm (Article 246, Parts 2 and 3 of Article 247, Article 248 of the Criminal Code, etc.); 2. the threat of harm (Part 1 of Article 247 of the Criminal Code of the Russian Federation).

Type of changes in public relations (object of crime): 1. deterioration of the quality of the natural environment (Article 246, Part 1 of Article 251 of the Criminal Code of the Russian Federation, etc.); 2. complete or partial loss of a component of the natural environment or a natural object (Part 2 of Articles 252, 259, 260, 261 of the Criminal Code of the Russian Federation, etc.); 3. physical harm (Part 3 of Article 247, Part 2 of Article 248 of the Criminal Code, etc.); 4. indefinite (unspecified) type (Part 2 of Article 252, Article 255 of the Criminal Code, etc.).

According to the content of public relations that have undergone changes as a result of an environmental crime:

1. Environmental damage (Articles 251, 252, Part 1 of Article 254 of the Criminal Code of the Russian Federation, etc.); 2. Causing death or harm to human health (Article 246, Part 3 of Article 247, Part 1 of Article 248 of the Criminal Code of the Russian Federation, etc.); 3. Indirect economic harm included in the content of a number of criminal consequences reflected in evaluative concepts (significant harm, significant and major damage, etc.), (Part 2 of Article 252, Articles 255 and 262 of the Criminal Code of the Russian Federation, etc.) [2, c. 76].

Among these consequences, a special place is occupied by the deterioration of the quality of the environment, since it is inherent in every environmental crime. In the Criminal Code of the Russian Federation, deterioration is terminologically designated in different ways: in Article 246 of the Criminal Code of the Russian Federation it is said about a significant change in the radiation background; in Part 2 of Article 247 of the Criminal Code, Part 1 of Article 251 of the Criminal Code, part 1 of Article 254 of the Criminal Code of the Russian Federation – about pollution, poisoning, infection, degradation of environmental components or nature as a whole.

Such formulations of consequences lead to a different legal assessment of acts in judicial and investigative practice. To some extent, this was influenced by the inconsistency of the legislator in the use of terms to denote signs of the *corpus delicti*. For example, in Chapter 26 of the Criminal Code of the Russian Federation, the same term «pollution» is used both to characterize the act (Article 250 of the Criminal Code of the Russian Federation) and the consequences (Article 251 of the Criminal Code of the Russian Federation).

Special attention should be paid to such a consequence as «the threat of causing significant harm to human health or the environment» (Article 247 of the Criminal Code of the Russian Federation). In accordance with paragraph 6 Resolution of the Plenum of the Supreme Court of the Russian Federation dated 18.10.2012 No. 21 «On the application by courts of legislation on liability for violations in the field of environmental protection and nature management» (hereinafter referred to as Resolution No. 21) threat of harm means the occurrence of such a situation that would entail harmful consequences provided for by law if they were not prevented by timely measures taken or other circumstances that do not depend on the will of the person who violated the rules for handling environmentally hazardous substances and waste. Such a threat presupposes the existence of a specific danger of real causing significant harm to human health or the environment. This interpretation causes a lot of problems for the law enforcement officer, since the boundaries between a completed and an unfinished crime are washed away, since, in accordance with Article 30 of the Criminal Code of the Russian Federation, an unfinished crime is one that has not been completed due to circumstances beyond the control of the person. No fewer problems are associated with the reflection of physical harm in the criminal law norms of Chapter 26 of the Criminal Code of the Russian Federation. Suffice it to say that the legislator uses five terms to designate it: harm to human health, significant harm to human health, the spread of epidemics, mass illness of people and human death. This alone leads to errors in judicial and investigative practice, to a discussion in the theory of criminal law.

Paragraph 2 of Resolution No. 21 in this regard states that «By causing harm to human health when committing crimes under Article 246, part 2 of Article 247, part 1

of Article 248, part 2 of Article 250, part 2 of Article 251, parts 1 and 2 of Article 254 of the Criminal Code of the Russian Federation, one should understand causing harm to health of any severity to one or more persons». However, this explanation raises reasonable questions. It follows from it that harm to health covers, among other things, light harm and moderate harm, therefore, their occurrence, in the presence of all other circumstances, means that there is a crime in the actions of a person and he can be brought to criminal responsibility. At the same time, these crimes, according to the same resolution, can be committed either intentionally or by negligence. But this contradicts the Criminal Code of the Russian Federation, according to which negligent infliction of minor harm and moderate harm to health does not constitute any *corpus delicti* [3, c. 79]. In addition, attention is drawn, in our opinion, to the excessive use of evaluative concepts by the legislator: significant, substantial, large, especially large. Although the meaning of some of them is disclosed in the Criminal Code of the Russian Federation itself (for example, in a note to Article 260 of the Criminal Code of the Russian Federation), the interpretation of others traditionally causes difficulties both in theory and in practice [4, c. 6].

Nevertheless, we consider it a positive circumstance that in recent years the legislator has been gradually defining clear quantitative limits of economic damage in the environmental norms of the Criminal Code of the Russian Federation. Thus, in accordance with the note to Article 258 of the Criminal Code of the Russian Federation «Illegal hunting», «major damage in this article is damage calculated according to the taxes and methods approved by the Government of the Russian Federation exceeding forty thousand rubles, especially large – one hundred and twenty thousand rubles. In turn, major damage in art. 256 of the Criminal Code of the Russian Federation «Illegal extraction (catch) of aquatic biological resources» recognizes damage caused to aquatic biological resources, calculated according to taxes approved by the Government of the Russian Federation, exceeding one hundred thousand rubles, especially large – two hundred and fifty thousand rubles [5, c. 150].

Thus, a brief analysis of the socially dangerous consequences of crimes provided for in Chapter 26 of the Criminal Code of the Russian Federation shows that there is

currently a need for legislative improvement. In addition, it is necessary to specify all the quantitative values of the economic damage caused in the article-by-article notes, since such a regulatory decision will have a positive impact on law enforcement practice.

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