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**STATE REGULATION MEASURES CONCERNING
ENVIRONMENTAL AUDITING IN THE RUSSIAN FEDERATION**

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Abstract

Statistics of environmental legal offenses shows that their number, committed by legal persons, is growing. This dynamics shows that the weight of environmental management systems and environmental impact assessment including environmental audit in Russia should be increased. This is important not only for Russia, but also for the other countries. Nowadays, legal regulation in this field is very poor as soon as there is a lack of a special law devoted to it. In addition, approaches used in Russia differ from the ones used in most foreign countries. Traditional preference for developing and implementing their own legal acts served as a formal obstacle to official support and dissemination of environmental management systems and environmental audit in Russia on the basis of ISO 14001:2015. It is concluded that this situation has extremely negative impact on the state of protection of the environment in Russia. The article provides authors suggestions on Russian environmental legislation improvements.

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Keywords: Environmental protection, environmental auditing, environmental management system, legal regulation, public policy proceedings in the field of environment.

1. Introduction

Environmental audit as a part of the environmental management system is a new direction in interdisciplinary the environmental and economic research at the intersection of the natural, legal, and social sciences. It is based on the concept of sustainable development aimed at harmonizing economic and environmental interests of society and solving social and economic problems, the preservation of a



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healthy state of the environment and natural resource potential in order to meet the vital needs of present and future generations. In line with this definition, the overall aim of International Standard 14001:2015 and its Russian version GOST R ISO 14001-2016 is to support environmental protection and prevention of pollution in balance with socio-economic needs. Environmental management under the standard is intended to provide the elements of an effective environmental management system that can be integrated with other management requirements of an organization and to help it to achieve environmental and economic goals. So international and national legal regulation of environmental auditing must be clear and detailed to establish an effective environmental management system within an economic entity.

2. Problem statement

Environmental management systems, including the system of environmental auditing, enable an organization to develop and implement a policy and objectives which take into account legal requirements and other requirements to which the organization subscribes, as well as information about environmental aspects. It applies to those environmental aspects that the organization identifies as those that it can control and those that it can influence, to enhance the organization's environmental performance. In Russia, the quality of the legal basis of environmental regulation stays insufficient (Sirina, Rohmer, & Fortyguina, 2014). This situation is affirmed by some independent researches in the field in (for example, Environmental Performance Index (<http://epi.yale.edu/>)).

3. Research questions

To be able to provide relevant information, the work is going to solve the following main question: why the environmental management system and environmental audit are not so efficient as in other countries? In order to answer the research question, the research is dealing with the following four sub-questions: does statistics show that the environmental situation in Russia needs to be improved? What is the main purpose of legal regulation in Russia in environmental policy? Have there been attempts to remedy the situation? What measures should be undertaken?

4. Purpose of the study

Let us examine of state the national level regulation in the field of environmental management and environmental audit in Russia to identify existing problems and to propose options for improvements.

5. Research methods

The study of issues related to the state regulation of any economic or non-economic activity that involves mainly the use of formal-legal method to conduct an analysis of the legislation in this sphere. In addition, the study deals with the use of comparative legal method, which allows comparison of the Russian and foreign governmental regulation model in the field of environmental protection. The research strategy is a case study, and the method choice is quantitative method. For example, the statistics on environmental crimes and environmental administrative offenses are analyzed.

6. Findings

During the implementation of the various economic activities, the interests of economic entities may cross over the interests of other stakeholders, society and the state. In addition, the economic entities can cause significant environmental damage by their actions. The development pressure is increased, in particular on the urbanized territories (Ilyichev et al., 2015). Moreover, it also results in continuously increasing adverse effect on the environment when pollution and waste generation predominates over the ability of the earth and current technology to regenerate itself (Ellram, Tate, 2013). It is very important to use such mechanisms as environmental orientation of management, environmental innovations, environmental competitive advantage, and the financial returns linked to environmental investments (Karagozoglu, 2001). That is why many companies improving their production regarding environmental safety and sustainable development set environmental requirements for their partners (for example, contractors), inform the society about the environmental impact (actual or anticipated), and consider public opinion (Matyugina et al., 2016).

Two of the strategic criteria representing the current environmental policy are environmental crimes and environmental administrative violations (Mataeva, & Mukasheva, 2014). In Russia, the number of environmental crimes and environmental administrative offenses is high (Fig. 1), which indicates insufficient development of current environmental policy in the country.

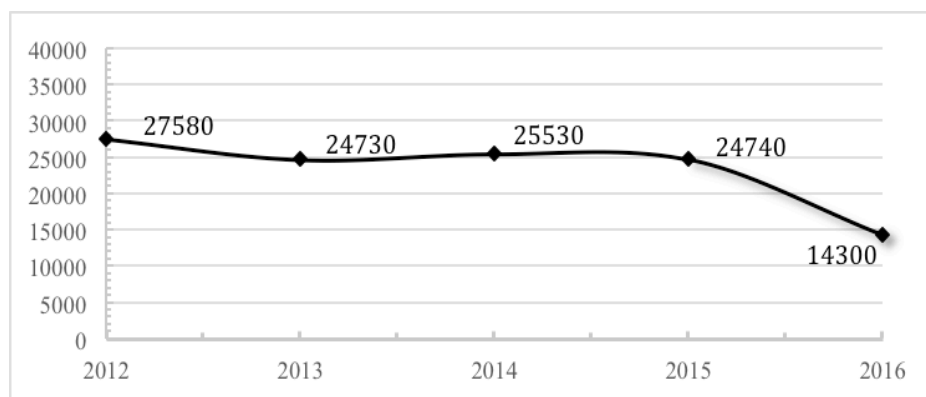


Fig. 1. Timeline of environmental crimes number (averaged for 12 months for 2012-2015 years and 7 months for the year of 2016)

In spite of the negative dynamics of environmental crimes, data of Russian WWF branch and the Civic Chamber of the Russian Federation show that 80-95% of the environmental crimes are not punished. Environmental crimes, along with the receipts, bribes, illegal detentions, imprisonment or detentions, and coercions to testify are particularly high latency crimes (Inshakov, 2008).

In the last five years, the Russian Federation has seen the rise in the number of registered environmental administrative offenses. The offences are quite important in number and, according to the data, are performed 35 times more often than environmental crimes. In terms of the inflicted harm, these offences are comparable to the damage caused by environmental crimes (Ermolaeva, 2015).

The results of the Federal Service for Supervision in the Sphere of Natural Resource study basing on statistics run as the following: the main violators of environmental legislation are legal bodies (about 46% of all offenders) and administrative officials (about 44% of all offenders), much less are individuals (about 10 %) (Table 1).

Table 1. The number of agents involved in the administrative responsibility for committing environmental administrative offenses

| Violators of environmental legislation | Legal bodies | Administrative officials | Individuals |
|--|--------------|--------------------------|-------------|
| 2015 | 13460 | 12537 | 2861 |
| 2014 | 16407 | 13936 | 3039 |
| 2013 | 14102 | 13021 | 2968 |
| 2012 | 13852 | 12751 | 2863 |

Thus, the nature of the harm caused by the actions of organizations is far superior to the actions of individuals. In this situation, the development of an effective system of environmental control over the actions of organizations, including the environmental management system, and environmental audit could be one of the measure to increase environmental safety in the Russian Federation. This system represents a complex multi-level system of relations between the economic entities themselves and the parent bodies (Tkacheva, 2016). This is important not only for Russia, but also for the other countries. Yet in 1991, Strategic Advisory Group on the Environment was created by International Organization for Standardization that produced a rationale for standardization work in the field of environmental management.

Nowadays, International standard ISO 14001:2015 specifies the requirements for an environmental management system to obtain the following results for sustainable development through: protection of the environment by preventing or reducing the negative impact on it; reduction the possible negative impact of environmental conditions on the organization; aid to organizations to fulfill the mandatory requirements; improvement of environmental indicators; control or influence on the ways in which, products and services of the organization are designed, manufactured and disposed, using life-cycle concept, which can prevent unintended bias of the environmental impact on the other stages of the life cycle; achievement of the financial and operational benefits that can be the result of environmentally focused initiatives that strengthen the market position of the organization; exchange of environmental information with the relevant stakeholders.

It is necessary to emphasize that understanding of the role and the place of environmental audit in the system of environmental management tools in the Russian Federation is different from that of the countries of Western Europe.

However, the traditional preference of developing and implementing of their own legal acts was the formal obstacle to official support and dissemination of environmental management systems and environmental auditing in Russia, it is important to understand the environmental audit as an enhanced statutory and regulatory flexibility as a reward to superior corporate environmental performance (Bearsley, & Davies, 1997).

During environmental audit, the auditors evaluate compliance of the organization activity to the requirements of piece of legislation, standards, regulations etc. However, there is no unified procedure of environmental audit in Russia. Russian legislation contains a lot of rules that establish the general principles of environmental auditing; nevertheless the direct regulation of the environmental audit is at beginning stage. Paragraph 33 of Article 1 of the Federal Law "On Environmental Protection" (2002) provides a definition of the environmental audit, which is understood as an independent, comprehensive,

documented assessment of compliance of economic and other activity by an entity to the requirements, including standards and regulatory documents in the field of environmental protection, to the requirements of international standards and preparation of recommendations on improvement of such activity.

However, the detailed legal regulation at the level of the law does not exist; it appears that the indicator of the legal regulation completeness is the existence of a special law. At the same time, the federal law "On environmental audit" is not adopted, this cannot be considered as a positive fact. Such situation does not affirm that now, the relevant federal law is not necessary. Nevertheless, environmental audit stays a complex phenomenon, so deep study of the entire legal block is required, that is in its turn significant time and labor resources.

An attempt to improve the legislation in the field of environmental audit was undertaken in 2003 when the concept of improvements of the Federal Law "On Environmental Protection" and a law-in-draft on environmental audit were proposed by the Russian Ministry of Natural Resources and Environment. The law-in-draft was supposed to create an effective tool for the independent review, evaluation of information on the current environmental situation and the actual results of any implemented activities, as well as preparation of qualified recommendations to reduce negative impact on the environment and improve the quality of governance in the field of environment.

The main objectives of the environmental audit in the law-in-draft were:

- to obtain reliable information on the activities of economic entities in the field of nature management and environmental protection;
- to increase the level of responsibility of economic entities in management decisions in the field of nature management and environmental protection;
- to assist economic entities in the independent regulation of their environmental policy;
- to establish the priorities for the implementation of preventive measures aimed at the implementation of and compliance with environmental requirements, rules and regulations;
- to increase their competitiveness in the global market through the introduction of environmentally friendly technologies and eco-labeling of production;
- to provide an objective assessment of compliance to the requirements of the legislation in the field of environment and environmental management.

However, till now the law-in-draft has not been introduced to the Federal Assembly of the Russian Federation.

In 2013, the Ministry of Natural Resources and Environment of the Russian Federation developed a new draft of the federal law "On environmental audit, environmental audit activities and amendments to some of the Russian Federation legislative acts". As conceived by developers, environmental audit should complete institutions of the environmental review and the environmental control. Implementation of environmental audit will allow one to carry out an independent assessment of the environmental protection activities of organizations, to identify the facts and causes of violations in the field of environmental legislation by enterprises, to prevent the penalties, and to develop recommendations to eliminate identified shortcomings.

So the development of the environmental audit system in Russia requires the development of a federal law about it. The adoption of such law will determine the legal basis of the activities in this field and the status of environmental auditors.

Comparison of the laws-in-draft is presented in Table 2.

Table 2. Comparison of law-in-drafts on environmental audit in Russia.

| | | |
|--|---|---|
| Differences between Environmental auditing's laws-in-draft | On Environmental Protection (Ministry of Natural Resources and Environment of the Russian Federation's law-in-draft , 2003) | On environmental audit, environmental audit activities and amendments to some of the Russian Federation legislative acts (Ministry of Natural Resources and Environment of the Russian Federation's law-in-draft, 2013) |
| Option changes in legislation | Inclusion to the Federal Law "On Environmental Protection" (to introduce the standards of environmental auditing) | Adoption of a separate legislative act |
| Numbers of paragraphs | 4 | 21 |
| Definition of environmental auditing | Environmental audits must deliver independent and transparent advice and recommend measures to reduce identified risks to the environment and to develop recommendations for the improvement of such activities | Independent assessment of nature management of an organization activity to elicit the facts and the reasons of law violations in the field of environmental protection by the entities, to prevent penalties |
| The general principles of operation of audit organizations | State regulation of Ministry of Natural Resources and Environment of the Russian Federation | Self-regulation as in the case of common (financial audit) |

Despite the absence of a federal law regulating environmental audit and associated activities, the legal status of it as one of the types of audit are subject to various regulations, decrees of federal executive authorities and officials. In addition to such legal regulations, some issues of environmental audit are regulated at the regional level. Analyzing the number of regional legislative acts, we can conclude that their number increases from year to year.

Interconnection of environmental audit and environment protection as well as the complex nature of environmental audit resulted in the existence of three level regulation of activity in the field of environmental audit.

The first level is the overall legal regulation. It includes the legal rules regulating general categories that are not aimed directly to deal with the environmental audit. So, environmental audit is a more specific phenomenon in relation to the environmental protection and audit in its general sense, consequently those rules, which regulate the more general phenomena should be applied to it. At this level, it is possible to distinguish three sublevels.

The first sublevel contains standards aimed at legal regulation of nature management and environmental protection in general. Due to the fact that environmental audit is closely linked with environmental protection, setting the rules of nature management and environmental protection, the state reinforces also environmental audit foundations.

In other words, these standards do not contain specific rules applied to environmental audit, but set certain principles that apply to it. We could count first of all, on the provisions of the federal Law "On Environmental Protection" (2002).

The second sublevel contains the standards regulated auditing activity. Environmental audit by its nature is a particular activity or a certain process. A more general concept in relation to the environmental

audit as an activity is audit in general. For example, the federal law "On audit activity" (2008) is aimed at legal regulation of an independent verification of accounting (financial) reporting of persons for the purpose of expressing an opinion of reliability of such a reporting. At the same time, the law generally can be applied to environmental audit as well in terms of the general principles of the organization and realization of the audit.

The third sublevel includes the standards and regulations of economic activity operation. These standards establish certain rules of behavior in this area, even though they do not directly regulate the activities in the field of environmental audit. First of all, it is the state that sets the rules of economic and other activities operation. In most cases, these rules and regulations are the criteria for an environmental audit. Comparing environmental audit criteria and the real situation, the auditor is able to evaluate the compliance of the economic entity with regulations (for instance, the Forest Code of the Russian Federation (2006), the Water Code of the Russian Federation (2006), etc.).

The second level may be called "adjacent" legal regulation. Environmental audit is close, but not identical to the other legal institutions, in particular, to the institution of environmental review and environmental control.

The third level of legal regulation is a set of legal norms, directly aimed at the regulation of activities in the field of environmental auditing. As it was already indicated above, in Russia, there is no a special federal law "On environmental audit" that is a gap in the Russian legislation.

7. Conclusion

Environmental systems are sensitive to human's economic activities; consequently, an imbalance in these systems may have serious negative consequences. Thus, nature management and protection of the environment including all associated processes should be within the scope of legal regulation. The state should develop detailed regulation applied to the economic activities through a variety of laws. The number of environmental crimes and administrative offenses in Russia is growing, as well is growing the number of resolved environmental violations, and amount of fines annually allocated to the state budget. However, data of WWF Russia and the Civic Chamber of the Russian Federation alarms that 80-95% of the environmental crimes are not punished.

Environmental audit, being an independent process, is an activity aimed at protecting the environment that helps to assess the level of environmental impact of the activities out of economic entities. It can be used to develop recommendations, following which the company will be able to reduce the damage to the environment.

The interests of economic entities during their economic activities could be crossed over with the interests of other stakeholders, society and the state. In many cases, the state with the help of the legal norms could protect man and society from the actions of the economic entities, causing damage to the human environment, as soon as the environment is an important part of human's lives.

Following the principle that environmental protection is of necessity in Russia, the system of legal norms, aimed at resolving the various aspects of the activities that could have an environmental impact, is created. At the same time, the economic activity of entities has a delayed impact on the ecological system that emphasizes the importance of environmental protection issue by means of improving environmental legislation, the activities of the Ministry of Natural Resources and Environment, creating the office of

Ombudsman for the Environment. There are no specific legal requirements for environmental audit to be carried out in Russian Federation. However, in order to achieve compliance with certain environmental legal requirements, environmental audit could become a tool is the most logical means of formally checking compliance.

References

- Bearsley, D. & Davies, T. (1997). Improving environmental management. *Environment*, 7, 6-17.
- Ellram, L. & Tate, W. (2013). Sourcing to Support the Green Initiative. New York: Business Expert Press, LLC.
- Ermolaeva, I. (2015). Characteristics of administrative offences in environmental legislation according to judicial practice. *Scientific notes of Petrozavodsk State University. Public and humanitarian sciences*, 3(148), 111-114.
- GOST R ISO 14001-2016 Retrieved from <http://docs.cntd.ru/document/1200134681>
- Ilyichev, V., Emelyanov, S., Kolchunov, V., Bakayeva, N., & Kobeleva, S. (2015). Estimation of indicators of ecological safety in civil engineering. *Procedia Engineering*, 117, 126-131.
- Inshakov, S.M. (2008). Research of criminal latency and paradoxes of social denial of criminality.
- International Standard ISO 14001:2015 Retrieved from <https://www.iso.org/standard/60857.html>
- Karagozoglu, N. (2001). Economic development and environmental management: comparing environmental management practices in Turkey and the United States. *Mid - Atlantic journal of business*, 2-3, 111.
- Mataeva, M. H. & Mukasheva, N. K.(2014). Effectiveness of ecological crimes counter action in Kazakhstan *Criminology Journal of Baikal National University of Economics and Law*, 3, 193-199.
- Matyugina, E. & Pogharnitskaya, O & Grinkevich, L & Belozerovala, D. & Strelnikova, A. (2016). Oil and gas company policy regarding the concept of sustainable development (water resources). *IOP Conf. Series: Earth and Environmental Science*, 33, 1-6.
- Sirina, N. & Rohmer, S. & Fortyguina, E. (2014). Environmental impact assessment: challenges in use of methods and tools in France and in Russia, *Key Engineering Materials*, Vol. 57, 40-43.
- The federal law "On audit activity" (2008). *Rossiiskaya gazeta*. 267, 2008.
- The federal Law "On Environmental Protection" (2002). *Rossiiskaya gazeta*. 6, 2002.
- The Forest Code of the Russian Federation (2006). *Rossiiskaya gazeta*. 277, 2006.
- The Water Code of the Russian Federation (2006). *Rossiiskaya gazeta*. 121, 2006.
- Tkacheva, M. (2016). Organizational aspects of environmental audit as a component of management: principles, methods, documentation. *Modern economy: problems and decisions*, 4, 145-158.