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Regulation of Waste Management and Elimination of Accumulated Damage in the Countries of the Eurasian Economic Union

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Abstract

The article has been devoted to the analysis of waste legislation and the elimination of accumulated damage, as well as the practice of applying such legislation in the countries of the Eurasian Economic Union. The article considers the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 1989, to which all the Eurasian Economic Union member states are currently parties. The question of the impact of the Basel Convention on their national legislation has been raised. The legislative gaps and shortcomings of the statutory regulation of waste management, as well as the elimination of accumulated damage in each of the Eurasian Economic Union countries, have been identified. The most successful legal novelties in this area of relations have been identified. Recommendations on their borrowing by other Eurasian Economic Union countries have been formulated. Significant problems have been identified in the relevant Russian legislation, as well as in the practice of its application. Proposals for their elimination have been formulated. Another identified problem, which is extremely relevant for the Eurasian Economic Union countries – is the definition of entities responsible for the elimination of accumulated damage on land plots, the ownership of which is not delimited. In such cases, it has been proposed to consider local self-government bodies responsible for the elimination of accumulated damage in such territories.

Keywords: production and consumption waste; Eurasian Economic Union; elimination of accumulated damage; historical pollution.

JEL Classification: Q53; Q52; K32.

Introduction

The problem of regulating the handling of hazardous waste, or rather the problem of their neutralization, disposal, and reuse, is very relevant today for the countries of the Eurasian Economic Union (hereinafter referred to as the EAEU). Hazardous waste can harm not only the environment of the state where it is produced but also neighboring countries (Edwards 2013, 515). Non-resident investors from the EAEU member states shall handle hazardous waste according to the legislation of the country where the production facility is located, respectively, obey technological and organizational rules, including bear the burden of paying environmental payments.

It is quite difficult to solve the issue of eliminating the accumulated damage technologically and financially. By the way, this is difficult to solve not only for our countries but also for most countries of the world (Andeobu *et al.* 2021, 121). This problem has been worked out most seriously at the level of the European Union (Pereira 2017, 147; Fanagan 2010, 303), the experience of which would be useful to use within the framework of the EAEU (Morganti *et al.* 2020, 105; Turkeshi 2014, 79). In addition, certain problems arise during the transboundary movement of hazardous waste, including from one EAEU country to another. We will focus on this issue since the EAEU states have already signed an Agreement on the Transboundary Movement of Hazardous Waste through the Customs territory of the Eurasian Economic Union dated August 9, 2019 (Cholpon-Ata, hereinafter referred to as the Agreement of August 9, 2019), which has been signed by all the participating countries but has not yet entered into force. The Board of the Eurasian Economic Commission adopted decision No. 101 dated August 18, 2020 "On a single form of a permit document applied following the Agreement on the Transboundary Movement of Hazardous Waste through the Customs Territory of the Eurasian Economic Union".

Currently, at the international level (Barsalou and Picard 2018, 887), the export of hazardous wastes is regulated by the universal Basel Convention of March 22, 1989, on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel, hereinafter referred to as the Basel Convention), ratified by Russia and the rest of the EAEU countries. This document is interesting for the topic under study for several reasons and, first of all, in connection with the references to it in the text of the Agreement dated August 9, 2019.

The Basel Convention obliges each of the participating countries to take appropriate measures to ensure that the generation of waste in its territory is minimized, taking into account social, technical, and economic aspects. This convention also calls for environmentally sound actions in the waste management process. The Convention allows for the right of a Party to prohibit the import of hazardous or other wastes for disposal, but it shall inform the other Parties of its decision. Thus, Russia, according to the Decree of the Government of the Russian Federation of October 17, 2015, No. 1110 "On measures to ensure compliance by the Russian Federation with the obligations provided for by the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal" prohibits the import of hazardous wastes for their burial or incineration on the territory of the country. At the same time, import and export from Russia, as well as transit of hazardous waste for use as raw material, is permitted. For these purposes, according to the Basel Convention, authorized bodies have been defined – the Ministry of Natural Resources and Ecology of the Russian Federation (organization and coordination of compliance with the requirements of the convention and representative functions); the Federal Service for Supervision of Natural Resources Management (issuing permits for the import, export, and transit of hazardous waste for use as raw materials; notification of the relevant authorities of states exporting, importing or transit of hazardous waste, about the planned transboundary movements of these wastes). Several functions related to the fulfillment of obligations under the convention are also assigned to other executive authorities (the Ministry of Foreign Affairs of the Russian Federation, the Federal Customs Service, etc.). Similar measures to meet the requirements of the Basel Convention have been taken in other EAEU countries. For example, the coordinator in the Republic of Belarus is the Ministry of Natural Resources and Environmental Protection.

1. Methods

This study, like most legal works of this kind, was based on the analysis of the norms of legislation and on the generalization of various views of legal scholars, one way or another concerning the issues under consideration. Therewith, we used systematic and functional-legal methods. In addition, the legal norms regulating waste management were considered both in the current version and in their retrospective. The relevant legislation is being considered simultaneously in all five countries that are members of the EAEU. In this regard, this article was characterized by comparative legal and comparative-historical methods. The latter method is especially relevant for the EAEU since the post-Soviet states that formed it have a common historical fate and a common experience in the legal regulation of environmental relations (Navasardova *et al.* 2018, 183).

We reviewed several works that allowed us to see the problems of hazardous waste and accumulated damage in the context of system-wide challenges to the environmental safety of post-Soviet countries. The work of A.V. Malko, N.V. Isakov, A.P. Mazurenko, D.A. Smirnov, and I.N. Isakov (2018), where the need to follow the principles of a formulated legal policy is emphasized in the formation of sectoral legislation. The article by N.A. Baieva, D.O. Burkin, T.F. Vysheslavova, and S.A. Lukinova (2018) is no less interesting in this regard, which also emphasizes the importance of legal policy and the possibility of using new humanitarian technologies in its formation. This seems to us extremely significant, since, as our research has shown, systematic legislative problems in regulating waste management in the post-Soviet space are the result of insufficient development of legal policy in this area (Navasardova *et al.* 2020, 1574).

The opportunity, on the one hand, to use the achievements of large international organizations in improving this legal institution in individual EAEU countries, and, on the other hand, to introduce the best national achievements in this area into the practice of other countries at the stage of interstate integration is of particular interest. Thinking about this, we have based on the work of Professor I.N. Klyukovskaya (2016, 2018) and her colleagues, who consider the theoretical and legal foundations of integration processes in modern states. The problems of waste management in the context of the broader problems of international economic integration have been considered in many modern studies. We highlight the work of T. Russo (2019) among them, on legal policy regarding waste in the European Union, as well as articles considering this issue concerning the UK (McNeill *et al.* 2021; Liu *et al.* 2017, 1425), Asian (Sutrisno *et al.* 2019, 429) and African countries (Gebregiorgis 2018; Agbor 2016, 235; Mogane and Mbajorgu 2014, 326). All this interests us, first of all, as existing methodological developments for the implementation of the improvements proposed by us in the legislation of the EAEU member states. The fundamental possibility of such an introduction is seen by us as the most significant hypothesis of our entire study from the standpoint of the practical application of its results in Russia and other EAEU states.

The present study was based on the analysis of new norms of international law and national legislation, as well as law enforcement practice by analogy with the latest research in other areas of jurisprudence based on an intersectoral approach (Smirnov and Strus 2015, 1). The authors focused on the high dynamics of changes in modern national waste legislation in the EAEU countries, which indicates the absence of a clear state policy in this area, which could be followed by the evolution of legislation.

The absence of this policy generates inconsistency, insufficiency, and, most importantly, the incoherence of the newly adopted norms. We identify such norms in the legislation of the EAEU member states and point out possible negative consequences in the practice of law enforcement. Comparing the relevant norms and bringing them to a "common denominator", as required by the goals of interstate integration, the article attempts to identify the weaknesses of national waste legislation. Some solutions to the identified problems have been proposed. Along the way, the possibility of receiving such decisions by different EAEU countries at the stage of their active economic integration is being considered.

2. Results

The situation with waste in the EAEU states is sticky. According to official data, about 100 billion tons of waste have accumulated in Russia. They cover an area of 4 million hectares. This is slightly less than the territory of the Netherlands or Switzerland. According to Federal Service for Supervision of Natural Resource Usage, the territory occupied by garbage increases by 400 thousand hectares annually (Antonov 2019). The situation in the field of waste management is somewhat better in the Republic of Belarus. Even though according to statistics, there is an increase in waste production, a significant part of hazardous waste is used. For example, out of 60,723 thousand tons of first-class hazard waste produced in 2018, it amounted to 22.7 thousand tons, of which 18.5 thousand tons were reused and only 5.3 thousand tons were removed (National Statistical Committee of the Republic of Belarus 2019, 172, 188). There is an annual increase in the production of waste in the Republic of Kazakhstan, including hazardous waste, and their recycling in 2019 amounted to 14.9% (Unified ecological Internet resource of the Ministry of Ecology, Geology and Natural Resources 2020). In the same year, the country introduced a ban on the disposal of plastic, following the example of the most advanced countries (Moore and Raff 2019, 242). By 2021, a ban on the disposal of food and construction waste is being introduced, which also has analogs in the practice of other states (Parizeau and Lepawsky 2015, 21). Even earlier, a ban on the disposal of particularly toxic components of electrical appliances was established in the country in full accordance with the best international experience (Hsain 2019, 1). There are 406 garbage dumps in Kyrgyzstan, while only 107 of them are recognized as legal. According to experts, the total mass of garbage in landfills is 16.5 million tons (Oroskulov 2019). Of these, recycled (used): total – 4,677.9 (National Statistical Committee of the Kyrgyz Republic 2019), which is approximately 2% of the generated waste. According to the Statistical Committee of the

Republic of Armenia, in 2019, organizations produced 67.4 million tons of waste, including waste from the mining industry. The existing 60 landfills do not sort, recycle or reuse garbage (Statistical Committee of the Republic of Armenia n.d.). Thus, the collection and recycling (use) of waste are the best, including hazardous ones, in the Republic of Belarus, and the worst – in the Republic of Armenia.

2.1. Waste Legislation in the EAEU States

What is the legislation in the field of waste management, including hazardous waste, in these countries? How does it implement the norms of the Basel Convention? Is there a need for convergence (harmonization) or unification of the legislation of the participating countries in this area?

In Russia, the definition of "waste" is given in Federal Law No. 89-FL of June 24, 1998 "On Production and Consumption Waste". The interpretation of waste is quite wide here. It emphasizes the source of the origin of waste – the processes of production, the performance of works, provision of services, or the process of consumption. It is particularly emphasized that the bottom soil does not belong to these. Therewith, according to the classification, waste is divided into 5 classes, but only 4 of them are hazardous: First-class – extremely hazardous waste; Second-class – highly hazardous waste; Third-class – moderately hazardous waste; Four-class – low-hazardous waste; Five-class – practically non-hazardous waste. According to Article 14 of the Federal Law "On Production and Consumption Waste", data on the composition of waste, assessments of the degree of their negative impact on the environment should be reflected in the waste passport (such is drawn up for the waste of First-Fourth Hazard class).

According to Article 1 of the Law of July 20, 2007, No. 271-L of the Republic of Belarus "On Waste Management", they are substances or objects formed in the course of economic activity, human activity and do not have a specific purpose at the place of their formation or have lost completely or partially their consumer properties. It seems that this definition is not sufficiently specific and does not allow for the unambiguous identification of waste. The clarification – "not having a specific purpose at the place of their education" – suggests that they may be suitable for something "in another place". It is not clear what the future fate of the alleged waste "does not have a specific purpose at the place of its formation" is, whether it is about their disposal or use as secondary raw materials. It should be noted that this definition is taken from the Model Law on Production and Consumption Waste (adopted in St. Petersburg on June 15, 1998, by Resolution No. 11-9 at the 11th plenary session of the Interparliamentary Assembly of the CIS member states), although this clarification does not make the definition more understandable.

As in Russia, Belarus has a waste classifier approved by the decree of the Ministry of Natural Resources and Environmental Protection No. 3-T dated September 9, 2019. It is quite logical and understandable. All waste is divided into sections and groups reflecting the degree and class of danger – in particular, biological, wood waste, metallurgical slags, scraps and dust, mineral slurries, waste of metals and their alloys, waste of chemical industries, and industries related to them, etc.

The Republic of Armenia has ratified the Basel Convention, and its Law of November 2, 2004 "On Waste" fully complies with it. As a follow-up to the provisions of this law, Armenia has adopted several by-laws regulating both internal (national) relations and relations related to transboundary movements of hazardous waste. In particular, the Resolution of the Government of the Republic of Armenia No. 97 dated December 8, 1995 "On regulation of import, export, and transit transportation of hazardous and other wastes through the territory of the Republic of Armenia" was adopted. It establishes the procedure for submitting applications, as well as monitoring the import, export, and transit of hazardous and other waste transportation through the territory of Armenia. An authorized body has been established that issues permit for the transportation of hazardous waste – the Ministry of Nature Protection.

The most accurate, in our opinion, the concept of "hazardous waste" is given in the Law of the Republic of Kyrgyzstan of November 13, 2001, No. 89 "On Production and Consumption Waste", which emphasizes the composition of waste substances that have one of the dangerous properties (toxicity, infectivity, explosiveness, flammability, high reactivity) and which are present in such quantities and in such a form that they pose an immediate or potential danger to human health or the environment both independently and when coming into contact with other substances. The criteria for classifying hazardous waste to hazard classes are contained in the Resolution of the Government of the Kyrgyz Republic No. 9 dated January 15, 2010 "On approval of the classifier of hazardous waste and methodological recommendations for determining the hazard class of waste". It should be noted that Kyrgyzstan focuses on the definition of a hazard class following the requirements of the Basel Convention, which accordingly distinguishes 3 such types: 1) green – G index; 2) amber – A index; 3) red – R

index. Waste coding is based on the main characteristics of waste, their toxicological, environmental, and other characteristics.

A draft law "On waste" is being developed in Kazakhstan. The conceptual framework and rules for waste management, including hazardous waste, are regulated by the Environmental Code of the Republic of Kazakhstan. In the previous version of the code, the concept of "hazardous waste" was identical to the legislative definition in Kyrgyzstan. The new Environmental Code of Kazakhstan, which entered into force in 2021, interprets the concept of waste differently: waste is understood as any substance, material, or object formed in the process of production, the performance of work, provision of services, or in the process of consumption (including goods that have lost their consumer properties) that their owner directly recognizes as waste or must send for disposal or recovery by the requirements of the law, or intends to subject or subject to operations for removal or recovery.

Describing the legislation of Kazakhstan in the field of waste management, it is necessary to pay attention to the requirements for the waste passport, which is highly informative in terms of content. Unlike, for example, the Russian passport, which includes only data on the composition of waste, assessments of the degree of their negative impact on the environment, the Kazakh analog additionally contains information describing the process of waste generation at the place of their origin, rules for handling them, as well as methods of their control and types of harmful effects not only on the environment but also on the health and property of persons. The passport is drawn up for hazardous waste from the "red" and "amber" lists. That is, waste belonging to the "green" list is not certified. The composition of the information entered into the passport has been expanded in Kazakhstan. For example, it should reflect the recommended methods of waste recycling; necessary precautions for waste management; requirements for waste transportation and handling operations; measures to prevent and eliminate natural and man-made emergencies and their consequences. We believe that such a set of information most fully characterizes hazardous waste and, importantly, is environmentally oriented.

The Russian waste legislation underwent serious changes several years ago. The changes made to the Russian legislation on waste have introduced several new subjects of these relations and, first of all, the regional operator for the management of solid municipal waste (hereinafter referred to as SMW) and the operator for the management of SMW. The first is a legal entity that is obliged to conclude contracts for the provision of services for the management of SMW with the owner of such waste, the second is an individual entrepreneur or a legal entity that carries out activities for the collection, transportation, processing, disposal, neutralization, the burial of solid municipal waste. The Law "On Production and Consumption Waste" does not clearly distinguish between the concepts of "regional operator" and "operator", but it regulates the procedure for acquiring the status of a regional operator in great detail. Some clarity is provided by the Decree of the Government of the Russian Federation No. 1156 of November 12, 2016 "On the Management of Solid Municipal Waste and Amendments to the Decree of the Government of the Russian Federation No. 641 of August 25, 2008". Thus, according to this document, a regional operator can carry out the waste manipulations prescribed to him/her either independently or by resorting to the involvement of operators in the treatment of solid municipal waste. Regulatory acts indicate the nature of the relations between these entities, namely, the contract for the provision of services for the collection and transportation of solid municipal waste. It follows from the document that there may be several operators, and each of them can perform different actions with SMW (some carry out collection and transportation, others – burial, disposal, etc.).

In 2019, the composition of waste management entities in Russia was expanded. Such new types have been introduced as: federal operator for waste management of first and second hazard classes; Russian environmental operator; operator for waste management of first and second hazard classes.

The legislation of other EAEU countries has also introduced the institute of operators for the management of certain types of waste. For example, according to Article 24 of the Law "On Waste Management" of the Republic of Belarus, to coordinate activities in the field of secondary material resources management, the Ministry of Housing and Communal Services creates a state non-profit specially authorized operator organization in the field of secondary material resources management.

There is an institution of an operator of extended obligations in Kazakhstan. This is a legal entity that is determined by the Government to implement the principle of extended obligations of producers (importers). Manufacturers (importers) are charged a recycling fee in Kazakhstan. In Russia, a similar payment is called a "recycling fee" and is charged for almost every vehicle imported into the country or manufactured on its territory. In Kazakhstan, the operator manages these payments, including their expenditure, based on an activity development strategy agreed with the authorized body in the field of environmental protection, including the priority of using the means of payment of producers (importers) for those purposes that are not recoupable at the expense of funds paid by individuals and legal entities at tariffs for the collection of solid household waste in

settlements. We must state that the development of these institutions is hindered by the high level of corruption in post-Soviet countries (Navasardova *et al.* 2015, 8).

2.2. Legal Regulation of the Liquidation of Accumulated Damage in Russia

According to the data provided in the "Strategy for the Environmental Safety of the Russian Federation for the Period up to 2025" (approved by Decree of the President of the Russian Federation No. 176 dated April 19, 2017), over 30,000 million tons of waste have been accumulated as a result of past economic and other activities. According to the results of the inventory of territories, 340 objects of accumulated environmental damage were identified, which are a source of potential threat to the life and health of 17 million people, which is a serious problem from the point of view of building a social state and implementing individual rights (Baieva *et al.* 2017, 1446). The amount of waste that is not involved in secondary economic turnover is increasing but is placed in landfills, which leads to the withdrawal of productive agricultural land from circulation. About 15 thousand authorized waste disposal facilities occupy territory with a total area of approximately 4 million hectares, and this area is increasing by 300-400 thousand hectares annually.

Even though the Federal Law "On Environmental Protection" was supplemented by Chapter 14.1 "Elimination of accumulated environmental damage" only in 2016, and the regulatory documents developing the provisions of this chapter even later, it should not be assumed that this problem has not been raised in Russia before. Moreover, "GOST R 54003-2010 was approved in 2010. The national standard of the Russian Federation. Environmental management. Assessment of the past environmental damage accumulated in the locations of organizations. General provisions". The standard takes into account the requirements of the Federal Law "On Technical Regulation" of December 27, 2002, No. 184-FL and the Law "On Ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" of November 25, 1994, No. 49-FL. It describes in detail a list of possible priority measures to eliminate past environmental damage by analogy with the experience of other countries participating in the Basel Convention (Coumans 2018, 303).

However, at the state level, the problems of eliminating accumulated environmental damage have not yet practically begun to be resolved. Moreover, even though more than 4 years have passed since the introduction of the relevant norms into the Law "On Environmental Protection", the bylaw is, in fact, only being formed. Nevertheless, we can already say that a legal mechanism has been created in Russia to solve the problems of past environmental damage, which corresponds to the best international experience in managing relevant risks (Villegas Pinuer *et al.* 2021).

Let us characterize the elements of this mechanism. First of all, the legislator requires to identify objects of accumulated environmental damage, for which it is necessary to conduct an inventory and survey of territories and water areas (Smirnov *et al.* 2018, 412), where economic and other activities were carried out in the past, or where ownerless capital construction facilities and waste disposal facilities are located. Further, an assessment of such harm should be made (the volume of pollutants, waste and their hazard classes; the occupied area; the level of negative impact on the environment and its components, including a list of possible environmental risks; the presence of hazardous substances on identified objects provided for by international treaties with the Russian Federation; the number of people living in territories that are already experiencing a negative impact associated with the presence of objects of accumulated harm, or are at risk of such harm).

The norm of paragraph 4 of Article 80-1 is objectionable, according to which the state authorities of the subjects of the Russian Federation or local self-government bodies have the right to identify and assess objects of accumulated environmental damage. We believe that the norm should be imperative, imposing an obligation, and not giving the right to these bodies to identify objects of past environmental damage.

The same paragraph of Article 80-1 states that in cases established by the Russian Government, the identification and assessment of objects of past environmental damage are carried out by federal executive authorities. According to the Decree of the Government of the Russian Federation of December 25, 2019, No. 1834 "On cases of organizing work to eliminate accumulated harm, identifying and assessing objects of accumulated harm to the environment, as well as amending some acts of the Government of the Russian Federation", the Ministry of Natural Resources identifies and organizes work to eliminate accumulated harm located on the continental shelf, in internal sea waters, in the territorial sea, in the contiguous zone of the Russian Federation; on land plots in federal ownership, as well as on other land plots where previously there was economic activity related to the production of chemicals and chemical products in the urban district of Usolye-Sibirskoye, Irkutsk region, and the economic activities of the open joint-stock company "Baikalsky pulp and paper mill". To eliminate objects of accumulated damage, a state register of such objects is created, which is maintained by the Ministry of Natural Resources of the Russian Federation.

Further, appropriate surveys are carried out, a project of work is being developed to eliminate the accumulated damage to the environment. It is coordinated, approved, then the actual work is carried out to eliminate the object of past environmental damage and the acceptance of the work performed is carried out. The works are performed by the contractor, according to the Russian legislation on the contract system in the field of procurement of goods, works, services for state and municipal needs.

Applicants – public entities, transfer the act of acceptance of the completed works to the Ministry of Natural Resources of the Russian Federation, which issues an order to exclude this object from the register.

The data of the state register are regularly updated. Thus, at the end of 2020, 267 objects were included in it. Out of 53 objects, information about which was entered into the Register in 2017, 37 were excluded as completed. In 2018, the State Register was supplemented with information about 90 objects, of which 16 have already been excluded as completed. Work is still underway on the objects included in 2019 and 2020. Thus, we can conclude that the process associated with the elimination of accumulated damage to the environment, although not very active, is underway.

At the same time, there are still questions for both legislators and law enforcement officers. We believe that the Russian legislation interprets the concept of "accumulated environmental damage" too "narrowly". In our opinion, any accumulation of waste in places not intended for this purpose should be attributed to accumulated damage, which would fully correspond to the social nature of state policy in this area (Baieva *et al.* 2019, 2754). In this regard, it is necessary to deal with the problem of the subjects responsible for their removal.

Another question is: which objects should be included in the State Register and liquidated at the expense of public entities. The analysis of the information entered in the State Register gives grounds to assert that the choice of objects is arbitrary. This also applies to the composition of waste. For the most part, unauthorized landfills of SMW are introduced into it. Moreover, their area varies from 1 ha to 120 ha. The same can be said about the number of people experiencing or being at risk of negative impact due to the location of the object of accumulated environmental damage – from 0 to 7500 thousand people and from 1,000,000 to 1,260,000 people. accordingly. The state register does not specify the hazard classes of waste, and only by their composition, it is possible to guess the presence of high hazard classes. For example, the tailing dump of the Elbrus lead-zinc mine, located in the Karachaevsky municipal district. There seem to be very few such objects in the registry. We believe that the State Register should include, first of all, objects of accumulated damage with a high content of hazardous (First-Third class) waste. As for the issue of liquidation of an object that has not been included in the State Register, and first of all, unauthorized landfills of SMW, it should be considered in a systematic connection with the Law "On Production and Consumption Waste", although this law is far from perfect.

2.3. The Problem of Eliminating Accumulated Damage on Public Lands

Several problems in this area arise due to the presence of land plots that are publicly owned, and land plots for which state ownership is not delimited, as well as situations related to delegated powers.

The most common situations are unauthorized placement of waste on the territory of protective forest plantations, the so-called "forest strips". These are artificially planted forest plantations on agricultural land. Forest belts began to be created in the middle of the 20th century in Russia. They play an important role in protecting fields from winds, in maintaining the hydrological regime of soils. The fact is that during the privatization of agricultural land in the early 90s of the last century, forest strips were not included in the composition of land shares. As a result, they can now be in different forms of ownership. Most of them are either turned into the property of the subjects of the Russian Federation or are not assigned to anyone at all, that is, the lands occupied by them are not delimited according to the forms of public ownership. It would be logical in cases where the ownership of land plots is not delimited, but it is necessary to carry out waste disposal works (if the perpetrators of their illegal placement are unknown), to assign responsibility for cleaning the territory of forest strips, as well as other land plots, as it seems to us, to local self-government bodies. This statement is based on an analysis of the legislative provisions: according to Article 3.1 of Federal Law No. 137-FZ of October 25, 2001 "On the Introduction of the Land Code of the Russian Federation", with some exceptions, it is local self-government bodies that dispose of undefined lands, therefore, in our opinion, it is these bodies that are recognized as the owners of such lands before the delimitation of state property. Until 2015, local self-government bodies in Russia had to take part in the organization of activities for the collection and transportation of solid municipal waste in the territories of the respective settlements. However, the current version of Federal Law No. 89-FL of June 24, 1998 "On Production and Consumption Waste" excluded such an obligation. According to Article 8 of the said law, local self-government bodies are currently responsible only for the creation and maintenance of places of accumulation of SMW, as well as determining the layout of places of accumulation of this type of waste, as well as maintaining

a register of such places. Since, according to Russian legislation, the implementation of any type of activity by the executive bodies of public legal entities related to budget financing is possible only if this type of activity is assigned to this body as a power, local self-government bodies generally have no right to organize waste disposal works even on land plots owned by them.

However, according to Article 6 of the law under consideration, the organization of activities for the accumulation, collection, transportation, processing, disposal, neutralization, and disposal of solid municipal waste is included in the powers of the subject of the Russian Federation. Therefore, as for the lands that are not delimited by the forms of state ownership, if unauthorized landfills are found on them, the obligation to eliminate them falls on the subject of the Federation. A similar norm is contained in clause 7.2 of Article 26.3 ("Principles of financial support for the exercise of powers by state authorities of a Subject of the Russian Federation on Subjects of Jurisdiction of the Russian Federation and subjects of Joint Jurisdiction of the Russian Federation and Subjects of the Russian Federation") of Federal Law No. 184-FL of October 6, 1999 "On General Principles of the Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation". The analysis of the legislation of the subjects of the Federation in terms of the assignment of powers to the executive authorities gives reason to say that the subject of responsibility in terms of waste disposal on non-delimited lands should be the bodies of housing and communal services of the subject of the Russian Federation. This is confirmed, for example, by the norm of subparagraph 29 of paragraph 10.6 of the Resolution of the Government of the Stavropol Territory of December 25, 2014, No. 545-p "On approval of the resolution on the Ministry of Housing and Communal Services of the Stavropol Territory", according to which the specified regional ministry is entrusted with the authority in terms of organizing activities for the accumulation (including separate), collection, transportation, processing, disposal, neutralization and disposal of solid municipal waste. Thus, the subject of responsibility in the case of non-disposal of waste on lands not delimited by forms of public ownership should be an official of the housing and communal services authority of the subject of the Federation, which is entrusted with such a duty.

If there is at least some clarity on the non-delimited state lands, then there is no such clarity when it comes, for example, to the lands of the forest fund. The forests growing on these lands are in federal ownership, but a significant number of powers have been transferred to the subjects of the Federation for execution. However, the organization of waste disposal from the forest fund lands is not included in these powers, nor is such a power established for the Federal Forestry Agency. This authority concerning such lands should be recognized as "dropped out".

Since the authority to remove waste from the lands of the forest fund is not assigned to anyone, the Federal Forestry Agency at the beginning of 2019 gave "Explanations on the elimination of unauthorized garbage dumps, taking into account the decisions of the Constitutional Court of the Russian Federation", the essence of which is that, firstly, clearing forests from cluttering, pollution and other negative effects no longer refers to sanitary and health measures and, accordingly, is not included in the powers of this body. Federal Forestry Agency, thus, has relieved itself of responsibility for the removal of SMW from the lands of the forest fund. Secondly, the explanations indicate that this authority is not assigned to the subjects of the Russian Federation as delegated, therefore, it cannot be performed at the expense of subventions allocated for the implementation of the powers transferred to them for execution. Thirdly, even though the legislation does not explicitly name the duty of a subject of the Federation to dispose of waste as a delegated authority, at the same time, the subject of the Russian Federation must exercise this duty. The argument of the Federal Forestry Agency comes down to the following. According to Article 1 of Federal Law No. 7-FL of January 10, 2002 "On Environmental Protection" (hereinafter referred to as Law No. 7-FL), objects of accumulated environmental damage include, inter alia, territories where accumulated harm has been detected, as well as waste disposal facilities that are the source of accumulated harm.

According to paragraph 2 of Article 80.2 of Law No. 7-FL, the state authorities of the subjects of the Russian Federation and local self-government bodies have the right to organize work on the elimination of accumulated environmental damage. Paragraph 4 of Article 80.2 of Law No. 7-FL establishes that the procedure for organizing work to eliminate accumulated damage is established by the Government of the Russian Federation. In the above-mentioned explanations of the Federal Forestry Agency, it is said that at present the Ministry of Natural Resources and Ecology of the Russian Federation has developed a draft decree of the Government of the Russian Federation "On approval of the Procedure for organizing work to eliminate accumulated environmental damage".

At the same time, the practice of bringing administrative responsibility in the Russian regions began to take shape through the issuance of appropriate decisions by the prosecutor's office to initiate administrative

proceedings against officials of the forestry. However, as already noted, the disposal of municipal solid waste is not allocated for the subjects of the Federation as a transferred obligation. The implementation of this type of activity is not funded. Subventions are not provided for it, therefore, forestry enterprises do not have the right to deal with the liquidation of unauthorized landfills.

Since it is not yet clear how responsibility will be distributed between the levels of state power for the elimination of accumulated harm, which also includes waste, it is unacceptable to hold forest officials accountable. As practice shows, at present, at least in the Stavropol Territory, to avoid administrative responsibility, forests growing on the lands of the forest fund are cleared of ownerless waste at their own expense and by their efforts by foresters.

3. Discussion

Relations in the field of eliminating accumulated environmental damage are also regulated in some other EAEU countries. The Law "On Environmental Protection" of the Republic of Kyrgyzstan (Article 54 "Compensation for damage caused by an environmental offense") contains a norm according to which, in the process of privatization of objects, residual pollution or damage caused to the environment in the past, before 1992, is considered as the responsibility of the state. In other cases, the specified liability is borne following the established procedure by legal entities or individuals-owners of the polluting object. This approach has analogies with the responsibility in the field of waste management in other countries (Wyatt 2016). This law does not say anything more about past environmental damage.

There is no systematic approach to the elimination of accumulated harm in Armenia. There is also no legal regulation of compensation for accumulated environmental damage in Belarus. These countries need to fill this gap in legislative regulation.

In Kazakhstan, past environmental damage is referred to as "historical pollution". However, there is a certain chronological gap in the legislative use of this concept there. Historical pollution was mentioned in previously existing regulations. For example, in the Concept of Environmental Safety of Kazakhstan for 2004-2015 (now canceled). Ownerless objects were attributed to historical pollution in this document: oil and gas and hydrogeological wells, mines, (including those with radioactive waste), tailings dumps, and wastewater storage facilities that pose a real threat to the environmental safety of the country. With the repeal of this act, the concept of historical pollution also disappeared from the legislation. This definition, or at least its analogs, was not mentioned either in the former Kazakh Environmental Code or in the Strategic Plan of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan for 2017-2021. The concept of historical pollution was returned to the legal field of this country only with the adoption of a new Environmental Code that entered into force in mid-2021.

At the doctrinal level in Kazakhstan, based on the analysis of the distribution of ownership rights to objects of "historical pollution", they are usually divided into four groups. The first category includes objects that are owned by the republic (these are former military training grounds, places of burial and storage of pesticides that have become unusable, man-made mineral objects, etc.). The second group includes objects that are in communal ownership (ash and slag dumps of boiler houses, animal burial grounds, remnants from destroyed and abandoned settlements, etc.). The third group is ownerless objects (territories of former industrial enterprises and their landfills, unidentified, left after the bankruptcy of enterprises). The fourth group is objects that are located on the territories of subsurface users (Kazakhstan Association of Natural Resource Users for Sustainable Development 2021). It cannot be said that Kazakhstan has not taken measures to eliminate or minimize the consequences of historical pollution. However, systematic work in this area is not fully carried out. It is necessary to first create a cadastre of objects of historical pollution to correct the situation.

Conclusion

Unlike in Russia, where local self-government bodies are practically excluded from the waste management system (they only create and maintain places of accumulation of SMW, and even then not in all cases), local self-government bodies in Kazakhstan approve the rules for managing ownerless waste recognized as such by a court decision and received into municipal ownership. Previously, the Environmental Code of Kazakhstan imposed on local executive bodies the organization of measures for the management of ownerless waste and the prevention of their negative impact on the environment and public health.

Everything changed with the adoption of the new Environmental Code in Kazakhstan, where Section 6 "Objects of historical pollution" is devoted to the problems of eliminating past damage. The regulation of the

elimination of past environmental damage is now similar to Russian standards, but there are also fundamental differences.

According to Article 143 of the new Kazakh Environmental Code, the identification and assessment of objects of historical pollution are organized by local executive bodies of districts and cities. There is no dispositivity in this norm, unlike the Russian one. It can be assumed that this activity is the responsibility of the executive bodies of local self-government. The same article contains a norm according to which, by the decision of the Government of Kazakhstan, the identification and assessment of individual objects of historical pollution are organized by the authorized body in the field of environmental protection. Such a rule is also dispositive In the Russian version, in contrast to the quoted one. The Ministry of Natural Resources of Russia has the "right" but is not obliged to identify and evaluate objects of past environmental damage. We believe that the legislators of the EAEU member states can focus on the legislation of Kazakhstan regulating the institution of eliminating accumulated environmental damage as the most progressive.

Summing up, we can draw certain conclusions. All the EAEU member states have joined the Basel Convention. The process of forming supranational regulation of relations in the field of hazardous waste management has begun. The legal framework in the field of relations understudy has been significantly updated in most of the EAEU countries. Although there are common approaches in the desire of several states (this applies to Russia, Belarus, and Kazakhstan) to regulate relations in the field of waste management, the new legislation of Kazakhstan seems to be the most detailed and environmentally oriented.

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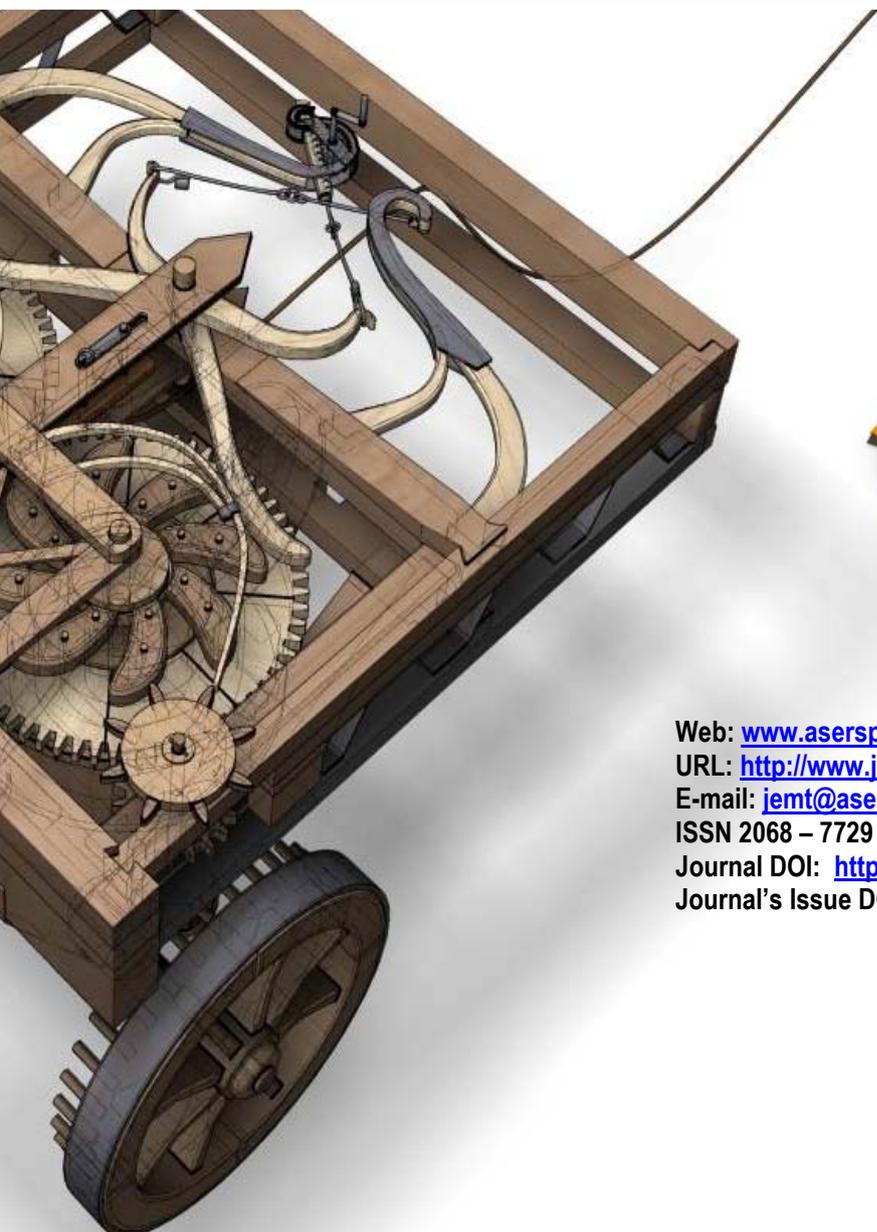
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