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PRESERVATION
OF THE ENVIRONMENT:
the Possibilities
of Society and Law

Monograph

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The best way to ensure environmental protection is to organize rational use of all types of natural resources: land, soil, mineral resources, forests, other vegetation, surface and groundwater, wildlife objects, protection of atmospheric air and near-Earth space, with the help of law and wide public involvement.

This monograph is the result of a discussion of environmental protection issues in the framework of the International Summer School, held at the Institute of Legislation and Comparative Law under the Government of the Russian Federation «The preservation of the environment: the opportunities of society, the possibilities of law» (August–September 2018, Moscow, Russia), which was held with the participation of the German academic exchange service (DAAD).

For a wide range of readers, researchers, teachers, students, graduate students.

Вопросы охраны окружающей среды в последнее время приобретают все большую значимость. И лучшим способом обеспечения охраны природы является организация с помощью права и широкого привлечения общественности рационального использования всех видов природных ресурсов: земель, почв, недр, лесов, иной растительности, поверхностных и подземных вод, объектов животного мира, атмосферного воздуха и околоземного космического пространства.

Данная монография — результат коллективной работы над решением проблем охраны окружающей среды в рамках Международной летней школы Института законодательства и сравнительного правоведения при Правительстве Российской Федерации «Сохранение окружающей среды: возможности общества и права» (август–сентябрь 2018, Москва), которая состоялась при участии Германской службы академических обменов (DAAD).

Для широкого круга читателей — научных работников, практикующих юристов, преподавателей, студентов, аспирантов, представителей природоохранных организаций и общественных объединений.

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Introduction

THE ROLE OF LAW IN SOLVING OF MODERN ENVIRONMENTAL PROBLEMS

1. Consumption of natural resources that has been spread over thousands of years should not be in contradiction with their protection and conservation of the entire natural environment. The best way to ensure the protection of nature is to organize, by the means of law, the rational use of land, soil, mineral resources, forests, other vegetation, surface and underground waters, objects of the animal world, protection of atmospheric air and near-Earth space.

2. The main environmental problem is the high cost of environmental measures, the contradictions between the economics and the environment due to the orientation of business activities to obtain maximum income, high profits. The construction of sewage treatment plants, the installation of dust and gas catchers, their operation and other environmental protection devices place a burden on economic activities, where the right is designed to balance the interests of individuals, legal entities, society as a whole, and care for current and future generations.

3. Constant and regular attention to the recognition, observance and protection of environmental and other rights of a person and citizen must be accompanied by the fulfillment of all this duties to preserve nature and the environment, and to treat natural wealth, as provided for in Article 58 of the Constitution of the Russian Federation. Ecological requirements, legal mechanisms for their provision are listed in the Land, Forest, Water, Urban Development Codes of the Russian Federation, laws on subsurface resources, animal world, protection of atmospheric air, specially protected natural territories, on environmental expertise, protection of the Lake Baikal.

4. According to public opinion, the accumulation of a large amount of municipal waste, the conditions, methods, and safety of collection, use, neutralization, transportation, storage and disposal

of which are regulated by federal, regional, municipal, local legal acts, become a concrete and aggravating environmental problem. The dumping of production and consumption wastes, including radioactive, into water bodies, catchment areas, subsoil and onto the soil, placement and burial of hazardous wastes in forest park, resort, recreational areas, and watershed that are sources of water supply are prohibited.

Chapter 1

GENERAL DESCRIPTION OF THE ROLE OF LAW AND STATE IN SOLVING MODERN ENVIRONMENTAL PROBLEMS¹

§ 1. THE GENERAL CHARACTERISTICS, TERMS AND CONDITIONS OF THE RUSSIAN NATIONAL LEGAL SYSTEM

The Historical Background

Before going to understand and to expertize the essence of the Russian national legal system (hereinafter — the RNLS), it is worth to get to know some episodes from its historical background.

The age of the RNLS is not very magnificent and impressive as, for example, the ages of the Egyptian or the Chinese ones, which are five thousand, or even more, years old. It is only and approximately one thousand and two hundred years old. There is no any scientist in Russia, who has a sharp information of that kind, because both the historical and the legal research in this sphere have not been successful since its beginning in the eighteenth century, when the Russian Academy of Sciences and the first Moscow Empire State University were established. Moreover, due to the severe climatic conditions it has always been very difficult (and it is so even nowadays) to keep on and to look after the traces of the ancient Slavic (Slavonic) tribes existence and the evidences of their activities either on the previous territory of the Russian State or on its modern territory.

¹ Institutet har en nøglerolle i Rusland. Det er landets ældste, stadig eksisterende juridiske forskningsinstitution, men har også til opgave at rådgive den russiske regering i lovgivningsanliggender, herunder i forbindelse med lovforberedelse. Se <http://www.izak.ru/en/> (This lecture was also delivered by the author to the students, post-graduate students, bachelors and masters of the King's Aarhus University in Denmark in September, 2017. That is why the text above here is written in Danish).

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