



## SOME ISSUES OF ENVIRONMENTAL REGULATION OF THE SEIZURE OF MINERALS IN THE REPUBLIC OF UZBEKISTAN

Rajabov Nariman Sharifbaevich

DSc

Associate Professor, Head of the Environmental  
Law Department of Tashkent State University of Law

e-mail: [n.sh.rajabov.78@gmail.com](mailto:n.sh.rajabov.78@gmail.com)

ORCID: 0000-0002-5166-964X

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**Annotation:** the article analyzes issues of further improvement of the system of environmental regulation in the field of subsoil use. Particular attention is paid to the procedure for setting environmental standards for the seizure of minerals, as well as to the issues of quotas and limits in the field of subsoil use. Appropriate proposals have been developed to improve the system of environmental regulation in the field of subsoil use.

**Keywords:** ecological norm and standards, environmental rationing, types of environmental regulations, subsoil, subsoil use, quotas and limits of extraction of subsoil.

The world has long been aware of the need to respect the natural environment, especially the rational use of its wealth. Land, subsoil, forests, air, water bodies and the flora and fauna that inhabit it are an enduring value and may be the main value of the biosphere. As Mahatma Gandhi correctly noted at the same time that «Earth gives enough to satisfy the needs of everyone, but not greed of everyone».

In the Republic of Uzbekistan, the purpose of which is to regulate relations arising in the field of subsoil, there is a law «On Subsoil» the main objective of which is to ensure the rational and integrated use of the subsoil to meet the requirements of minerals and other needs. The Constitution enshrines a norm that is a national asset. The use of subsoil resources provided for geological exploration, mining etc. poses a threat to the state of the natural environment, such as irreversible changes in the quality of the natural environment, air pollution, water resources, waste generation in the field of subsoil use, land pollution, as well as other negative effects.

The search for solutions to these problems in the field of subsoil use necessitates the establishment of scientific and Reasonable limits on the impact or use of resources, taking into account positive foreign experience, with a view to establishing an effective legal mechanism for environmental protection and ensuring environmental security in the field of subsoil resources. In this regard, the reduction of negative impact on the environment and the seizure of natural resources is achieved through environmental regulations.

It may be noted that environmental problems should be singled out among the topical ones. In our country, given the current situation in the field of environmental protection, we need constructive measures aimed at protecting the natural environment, managing natural resources and ensuring environmental security in general. However, the solution to this problem can be found in the establishment of organizations, by using the function of the State as the implementation of environmental regulation.

More recently, the rapid development of technological advances and the intensive use and exploitation of natural resources have increased their depletion and pollution of the natural environment. All these issues are now being discussed in the media and in academia. The

pollution of nature, its degradation, the depletion of natural resources, caused the emergence in our country of a special direction of scientific research in the legal protection of nature.

Also, in accordance with the Program for transition to «green» economy and ensuring «green» growth in the Republic of Uzbekistan until 2030, approved by the Resolution of the President of the Republic of Uzbekistan of December 2, 2022 PP-436, priority directions «green» Among the priorities for growth is to ensure the «green» and low-carbon development of the national economy in industry is to examine the reserves and potential of minerals that are essential for low-carbon development. And, according to the action plan, the mechanisms for achieving these objectives include the development of a plan for the phased reduction of subsidies and support for the fossil fuel industry, as well as its harmonization with climate change mitigation measures.

Since independence, Uzbekistan has inherited complex environmental problems associated with the unsustainable management of natural resources, as well as a high level of pollution from communal and industrial sources and irrigated waters. This was due in large part to serious structural problems in the agricultural, energy and industrial sectors, which continue to be at the root of many serious problems in the management of the country's environment and natural resources [1].

Protecting the natural environment and ensuring the rational use of natural resources and ensuring the environmental safety of the population in the Republic of Uzbekistan are the main priorities of the State as a whole. The basis of rational and effective environmental management, as well as a number of measures for the protection of the natural environment, of course, is the procedure for the creation and legal enforcement of a system of scientifically based restrictions aimed not only at reducing the harmful effects, but in general and anthropogenic load.

So, the issue of environmental regulation in the use of subsoil resources if read sufficiently developed, it can be said - this is a controversial point, because in science and practice now this issue acquires a special, strategic importance. The issues of environmental regulation of mineral extraction are complex and go beyond its proper legal solution. Accordingly, the setting of environmental standards for the maximum permissible extraction of minerals or subsoil from the economic and investment position does not take into account the laws of the market in modern times.

In fact, according to most scientists, the introduction of regulations in the field of subsoil use may meet with objections from the political point of view. So, the natural question is, how will foreign consumers or investors respond to the decline in their supply because of regulations in this area? Considering what, according to Art. 55 The Constitution of the Republic of Uzbekistan, the subsoil of which is a national wealth, is subject to rational use and is protected by the State.

Therefore, investors will have to look to other suppliers of countries, and therefore, in addition to losing the market, there will be a decrease in government revenues, which is very undesirable. Therefore, given the current state of the world economy and the country's national economy, it is unlikely that it will voluntarily abandon the supply of mineral resources or reduce their volume.

It should also be noted that the regulations for the extraction of subsoil resources limit the extraction of these mineral resources, which in turn affects budgetary revenues. And as a

result, the success of the policy implemented in the country is directly related to mineral revenues, and the establishment of these regulations will inevitably reduce them, as well as reduce the investment attractiveness of deposits, interest of subsoil users in investment in the development of production and infrastructure.

According to the majority of scientists, the legal regulation of regulation in the sphere of the use of natural resources has not yet received adequate development. Regulations for the use (seizure) of natural resources are established to ensure that natural resources are not depleted, taking into account their self-recovery, and to prevent imbalances in the natural environment.

And, for non-renewable natural resources (e.g., mineral resources), such standards should define a socially and economically sound regime for their use (extraction).

In this regard, the world science has developed rules for determining long-term or permanent limits of sustainable consumption of natural resources. For example, the economist of the International Bank for Reconstruction and Development, Herman Daley, believes that for non-renewable resources (fossil fuels, high-quality mineral ores, groundwater) the rate of consumption should not exceed the rate of replacement for renewable resources (for example, an oil field can be exploited in a stable manner if part of its revenues is systematically invested in the development and production of solar collectors or the planting of trees, so that an equivalent flow of energy from the renewable source will be ensured after the oil disappears)[2].

Further, in the legal literature, environmental regulation is understood as the procedure for setting environmental standards by authorized bodies and their application in practice, and it is also the finding of boundary values of environmental loads for the purpose of so that it is possible to set limits on the controlling effects on the object of normalization, at which the goal of normalization is achieved.

Thus, in foreign countries, environmental regulation from the point of view of sustainable development is defined as «scientifically-based limitation of the impact of economic and other activities on resources providing socio-economic interests and environmental needs» [3].

In addition, environmental regulation is one of the most complex and intensively developing legal instruments for environmental protection and is considered in several capacities as a legal measure for environmental protection [4] as a legal institution and as a function of public administration in the field of environmental protection and rational use of natural resources [5] as well as as a means of state regulation of environmental activities [6].

The scientific literature has repeatedly suggested that specific regulations should be introduced in mineral extraction legislation in the context of mineral security [7].

For example, in the opinion of scientist R.Yamaletdinov, «in the basis of the regulation of the withdrawal of minerals in terms of ensuring mineral and raw material security should be accurate economic indicators: a) the needs of the domestic market in minerals for their types, with data for recent years and the projected level of development of these indicators for the next 10-15 years; b) the needs of the external market, taking into account commitments to supply energy resources for export; c) Total reserves explored by mineral (separate balance sheet and balance sheet)»[8].

Also, according to the scientists of various countries, the norm is called among the main legal measures of environmental protection [9]. According to A.I.Perchik, the main objective of the allowable extraction regulations is to regulate the depletion process [10]. Some scientists

believe that the regulation of extraction of subsoil resources is aimed at protecting not the subsoil, but the vital interests of enterprises, the population from the threat of depletion of subsoil (shortage of natural resources) [11].

On this basis, the emergence of regulations for the seizure of minerals effectively means the prohibition of the procedure for obtaining super profits in the mining industry or in the sphere.

It may also be stressed that the current environmental legislation contains a general provision on the regulation of the permissible exemption of components of the natural environment in Article. 16 Law «On Nature Protection» according to which the use of nature is allowed provided that the natural environment suitable for life is preserved and natural resources are used within the limits established by the relevant regulations, and ensuring the reproduction of renewable and renewable natural resources.

A number of natural resource laws contain provisions on the regulation of allowable extraction of natural resources, and the Law of the Republic of Uzbekistan «On Subsoil» does not contain provisions on the regulation of the withdrawal of minerals, The Act also contains no provisions on regulations for the seizure of minerals, nor on how to establish and apply them. Therefore, in our view, rules should be established and additions made to the regulation of mining.

In this sense, it is also necessary to develop a by-law mechanism for the implementation of environmental regulation. In addition, in order to improve investment attractiveness, the best standards could be established by agreement between the parties, i.e. the terms of the contract should be negotiated in advance.

In the Republic of Uzbekistan, despite its primary role in ensuring the rational and effective use of natural resources and the protection of the natural environment, the legal regulation of the regulation of the use of natural resources has not yet been adequately developed. In general, regulations for the use or seizure of natural resources are established to ensure that natural resources are not depleted, taking into account their self-recovery, to prevent violations of the ecological chain of nature, a socially and economically sound use or extraction regime is always established for these.

As Gizzatullin R.H. correctly points out, with regard to the regulation of the seizure of natural resources, it is aimed at ensuring the rational use of natural resources and its application is aimed at preventing their depletion. It is important to bear in mind that the removal of components of the natural environment within the established limits does not have a negative (harmful) impact on the environment, while emissions and discharges, physical impact, disposal of waste in any mode (regulatory, limit or excess) pollution [12].

It is clear that standards and limits are the elements and main instruments of the environmental regulation system [13]. They also serve as environmental regulators. At the same time, limitation is a system of environmental-legal and economic restrictions by territory, time and amount limits for the use (sequestration) of natural resources, emissions and discharges into the environment. Thus, you are a system of environmental restrictions, according to which natural users carry out their activities environmental protection, including reducing waste, reduce your throw (discharge) of harmful pollutants.

Also, limits on the use of natural resources are set to prevent their depletion and imbalance in the natural environment, taking into account their ability to reproduce themselves. They are limits on the use of natural resources set by specially authorized state bodies.



Also, an important feature of the withdrawal of components of the natural environment is a combination of the features of regulation (applicability to the relations of an indeterminate range of subjects) and individual regulation through the issuance of acts of application of the law (since administrative acts are usually established for each natural user), therefore, a distinction should be made between general and individual standards for permissible exemptions. The former shall be established for components of the natural environment (their parts, elements) according to their condition and shall apply to an indeterminate circle of persons, and the latter shall establish rights of exemption for certain entities (natural users) » [14].

And some scientists propose to set separately the criteria for allowable withdrawals for each deposit, by type of mineral. In any case, the standards will have to be set in such a way that the repayment period of the investment in the development of the deposit will be visible. That is, the rules of exemption can not only serve the interests of the protection of subsoil, but also become an effective instrument of the state policy in the field of subsoil use [15].

And in this sense it can be emphasized that one of the objectives of environmental regulation is to achieve a scientifically sound compromise between the environmental, economic and social interests of the human being, Society and the State to ensure sustainable development and a favorable natural environment. Compliance with these standards is a criterion for the observance of the human right to a favorable natural environment. Naturally, the objects of environmental regulation are: environmental objects; atmospheric air, surface and groundwater, soil, plant and animal life; sources and factors of pollution and harmful effects on the natural environment, Pollutants; environmental systems; environmental regulations and regulations; control methods (sampling, testing, assessment analysis) in the field of nature protection [16].

It is obvious that the requirements for the regulation of the maximum use (withdrawal) of individual natural resources should be established in the natural resource acts taking into account their specificity.

Therefore, we believe that in the future mining should be carried out economically, and the mining industry should focus on the interests of future generations, on sustainable development not only of the present, but also of the future of our country.

In general, it is also important to note that in order to implement activities related to the improvement of the system of environmental regulation, it is necessary to bind standards for allowable extraction of natural resources and ensure a gradual reduction in the use of natural resources. The use of economic instruments to ensure the rational and environmentally responsible organization of production, which ultimately creates conditions for improving the quality of industrial development.

### References:

1. National Report on the State of the Environment and Use of Natural Resources in the Republic of Uzbekistan 2008: (Retrospective analysis for 1988-2007) / Compendium: S.V.Samoilov, W.B.Abduzhalilov, L.A.Aksenova, etc. Near the village. Ed. B.B.Alikhanova. - Tashkent: Chinor ENK, 2008. 300 p.
2. Daly Herman. Ecology of resource consumption and sustainable development. // Translated edition: «Ecology of the economy», 4, 2006. p.19.

- 3.Strategy and problems of sustainable development of Russia in XXI v. / under Ed. A.G. Granberg, V.I. Danilova-Danilyan, M.M. Tsikanova, E.S. Shophova. M.: CJSC «Publishing «Economy», 2002. - P. 233.
- 4.Brinchuk M.M. Environmental Law: Textbook. M.: Gorodets, 2009. P.165
- 5.Golichenkov A.K. Environmental Law Dictionary // Environmental Law. 2004. 5. P. 16.
- 6.Vasilyeva M.I. Conceptual issues of improvement of environmental policy and legislation on environmental protection // Environmental law. 2007. 2. P. 8.
- 7.Perchik A.I. Mining Law: textbook. M.: Publishing House Philology Three, 2002. C. 414; Brinchuk M.M. Energy security and environmental law // Environmental law. 2007. 5. P.3; Vasilyeva M.I. Conceptual issues of improvement of environmental policy and legislation on environmental protection /Environmental law. 2007. 2. P. 8 18; Yamaletdinov R.R. Legal aspects of the regulation of mineral extraction in the Russian Federation // Environmental law. 2011. 1. P. 16 19.
- 8.Yamaletdinov R.R. Legal problems of ensuring mineral and raw material security of the Russian Federation // Environmental law. 2012. 3. P. 10 14.
- 9.Brinchuk M.M. Environmental Law. M.: Lawyer, 2002. P. 285.
- 10.Perchik A.I. Mining Law: Textbook. M.: Publishing House "Philology Three", 2002. P. 414.
- 11.Baidakov S.L., Serov G.P. Legal provision of environmental protection and environmental safety. M.: Ankil, 2003. P. 168.
- 12.Gizzatullin R.H. Ecological function of the State: theory and practice of realisation / Dissert. for the Doctor of Law degree. Moscow: 2014. 276 p.
- 13.Kitchigin N.V. Environmental regulation: problems of uniformity of legal terminology / J. Environmental law. 2004. 4. P - 26-27.
- 14.Dubovik O.L. Comment to the Federal Law of January 10, 2002 7-FZ «On the Protection of the Environment» (article-by-article) // Reference legal system «KonsultantPlus». 2010.
- 15.Yamaletdinov R.R. Legal problems of ensuring mineral and raw material security of the Russian Federation // Environmental law. 2012. 3. P. 10 14.
- 16.Nariman Rajabov. "The current state and prospects of the development of the environmental regulation system (historical-legal analysis)" Review of law sciences, no. 3, 2020, pp. 133-139. doi:10.24412/2181-1148-2020-3-133-139.
- 17.Sharifbaevich R. N. Digitalization of Environmental Regulation: Legal Aspects //American Journal of Social and Humanitarian Research. – 2022. – T. 3. – №. 6. – C. 374-380.
- 18.Sharifbaevich, R.N. 2023. The Role of Social Partnership in Setting Standards for the Protection of the Natural Environment (Legal Aspect). International Journal of Development and Public Policy. 3, 2 (Feb. 2023), 16–25.
- 19.Rajabov N. Sh. Rol Sotsialnogo Partnerstvo V Ustanovlenii Normativov V Sfere Oxrani Okrujayushey Prirodnoy Sredi (Pravovoy Aspekt) //Central Asian Journal of Theoretical and Applied Science. – 2021. – T. 2. – №. 8. – S. 45-55.
- 20.Rajabov N. KONSTITUTIONNO-PRAVOVAYA OSNOVA OBESPECHENIYA PRAVA NA EKOLOGICHESKI CHISTUYU PRODUKSIYU //Review of law sciences. – 2020. – T. 3. – №. Spesvipusk. – S. 179-183.
- 21.Rajabov N. EKOLOGIK STANDARTLASHTIRISHNI HUQUQIY TARTIBGA SOLISHNING AYRIM MASALALARI XUSUSIDA //VESTNIK KARAKALPAKSKOGO GOSUDARSTVENNOGO UNIVERSITETA IMENI BERDAXA. – 2017. – T. 34. – №. 3. – S. 112-114.

22.Nariman Rajabov. "SOVREMENNOE SOSTOYANIE I PERSPEKTIVI RAZVITIYA SISTEMI EKOLOGICHESKOGO NORMIROVANIYA (ISTORIKO-PRAVOVOY ANALIZ)" Review of law sciences, no. 3, 2020, pp. 133-139. doi:10.24412/2181-1148-2020-3-133-139