CORRELATION OF ENVIRONMENTAL IMPACT ASSESSMENT WITH OTHER ORGANIZATIONAL AND LEGAL MECHANISMS OF ENVIRONMENTAL PROTECTION MEASURES

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Abstract: Pollution of the natural environment is progressively increasing in accordance with the increasing rate of technogenic load. This problem necessitates taking measures to prevent negative consequences. Due with this, at the state level, an assessment of the state and impact on the environment and the development of measures aimed at its protection in the legal aspect are carried out. Subjects appropriate to carry out these activities need to determine the legal distinction between the definitions of environmental monitoring and environmental impact assessment.

Key words: environmental impact assessment, planned economic and other activities, state ecological expertise, transboundary procedure, environmental impact assessment report, public discussions.

Material and methods. As a result of research and research, this article includes the use of national legislation, scientific and theoretical sources, the experiences of advanced countries in this field in our own experience, and new opinions in this direction. In the article, methods of analytical-comparative, statistical and logical review of legal norms and experiences of foreign countries are used to improve the efficiency of land use of farms.

Research results. The state policy in the field of ensuring environmental safety is part of the national security of the Republic of Uzbekistan and is a set of political, social, economic and legal measures aimed at protecting the population from the negative impacts of hazardous industrial, technological and biological factors and at preventing environmental threats.

One of the tools of state administration to ensure the natural rights of citizens to a favorable environment and reliable information about its state is the procedure for assessing the impact on the environment at the stage of planning economic activities.

Among the main principles established in the laws of the Republic of Uzbekistan “On Nature Protection” and “On Environmental Expertise”, it is worth highlighting the following:

1. presumption of environmental hazard of planned economic and other activities;
2. the obligation to assess the impact on the environment when making decisions on the implementation of economic and other activities;
3. the obligation to conduct, in accordance with the legislation of the Republic of Uzbekistan, verification of projects and other documentation justifying economic and other activities that may have a negative impact on the environment, create a threat to the life, health and property of citizens, for compliance with the requirements of technical regulations in the field of environmental protection [1, 2]. The implementation of these principles is carried out through the interaction of two tools, namely, an environmental impact assessment (EIA - further) and environmental expertise. We will discuss these environmental and legal instruments below. According to paragraph 2 of the Regulation "On the State Ecological

Expertise", approved by the DCM dated 07.09.2020 No. 541, EIA is a type of activity to identify, analyze and take into account the direct, indirect and other consequences of the environmental impact of the planned economic and other activities in order to make a decision about the possibility or impossibility of its implementation [3]. It can also be said that EIA is a qualitative scientific forecast of possible changes in the environment because of the implementation of a particular economic decision. The main purpose of the EIA is to prevent or reduce the degree of negative impact of the proposed activity on the environment. The legal nature of EIA according to Krassov is that this procedure is a formalized procedure, because of which the direct and indirect consequences of the impact of the planned economic and other activities on nature are identified, analyzed and taken into account [4]. The analysis of the impact on the surrounding spheres gives the practical significance of environmental science and socio-ecological practice. One of the main directions of this analysis is environmental impact assessment. This procedure makes it possible to identify and prevent environmental, social, economic and other consequences of its implementation that are unacceptable to society, as well as to assess investment costs for environmental protection measures. The objects of assessment are the projects of large enterprises in the mining and processing industries, communications, energy, ports and airfields, canals and reservoirs, large agricultural enterprises and others.

According to Article 1 of the Law of the Republic of Uzbekistan “On Environmental Expertise”, environmental expertise is understood as establishing the compliance of the planned or ongoing economic and other activities with environmental requirements and determining the admissibility of implementing the object of environmental expertise. The above law says that the ecological expertise is aimed at preventing the negative impact on the environment from the side of the economic entity and other anthropogenic activities. Ecological expertise is a form of “precautionary environmental control”. It ensures the implementation and protection of the right of everyone to a favorable environment, enshrined in Article 12 of the Law of the Republic of Uzbekistan "On Nature Protection", and is also a source of environmentally significant information. Thus, EIA and ecological expertise are two effective environmental and legal instruments that have a common goal and perform the function of preventive environmental control, are aimed at preventing harm to the environment, and also establish compliance with the measures to prevent such impact, provided for in the relevant documentation, with the requirements in the field environmental protection. However, it is worth remembering that these are completely different procedures. So, for example, the difference in the subject of these procedures. The subject of an EIA is a planned economic or other activity that may have a direct or indirect impact on the natural environment. The subject of environmental expertise is documents or documentation that substantiate economic and other activities, environmental requirements. EIA as a procedure is taken at the stage of documentation development, and environmental expertise is carried out in relation to pre-project documentation or already completed documentation. The results of the EIA (EIA materials) are documented and are part of the documentation submitted for the environmental review, that is, the EIA procedure is a mandatory stage (the EIA is carried out only for those objects in respect of which the environmental review should be carried out) and without it, the environmental review cannot be carried out. As for the conclusion of the environmental review, the legal consequence of a positive conclusion of the state environmental review is approval for the implementation of the object of expertise and vice

versa, the legal consequence of a negative conclusion is a ban on the sale of the object of expertise. The EIA is carried out by the initiators of the proposed economic or other activity, namely the customers or contractors, if they have been granted the right to conduct this procedure. State environmental expertise is carried out by expert commissions formed by state executive authorities in the field of environmental expertise. The composition of the expert commission is approved by the chairman of the Committee of the Republic of Uzbekistan on ecology and environmental protection, it includes specialists from various fields, not only from jurisprudence. State environmental expertise (public environmental expertise cannot be considered as a management function, "because it is an integral element of the environmental legal capacity of a citizen and public environmental organizations"[5] and, moreover, its decisions are often advisory in nature), is a management function in the field environmental protection, unlike EIA, since this procedure is not carried out by public authorities, but by the initiator of the proposed economic or other activity that may affect the state of the environment.

The first step in environmental impact assessment studies is the description and evaluation of all components of the environment, as well as their functions. The studied components primarily include:

1. Man;
2. Animal and plant world;
3. Soils, taking into account the geological environment;
4. Ground and surface waters;
5. The appearance of the landscape;
6. Air and climate;
7. Cultural, historical and other material resources.

After assessing and describing the components of the environment on the basis of engineering and environmental surveys and the responses received from environmental authorities, the following components were identified and presented according to the impact of negative factors:

1. Atmospheric air. The main source of air pollution is the road.
2. Ground cover. The studied soil belongs to the "clean" category according to the total indicator of chemical pollution (Zc) and can be used without restrictions. The soil moved during the overhaul of the road section can be used for vertical and horizontal planning of the right of way of the road, landscaping and reclamation of disturbed lands. There are no cattle burial grounds, landfills for solid domestic and industrial waste on the territory of the allotted section of the highway.
3. Animal and plant world. There are no specially protected natural territories of republican, regional and local significance in the study area. The site is located in the subtaiga zone. Vegetation is represented by small shrubs, herbaceous vegetation. Carrying out the EIA procedure is a mandatory component in the planning of economic activities. Unfortunately, at the moment there are shortcomings in the form of the lack of a unified and sectoral methodological base for EIA. The main limitation in the design of capital repairs is the proximity of residential development and agricultural land.

In addition, one of the main types of organizational and legal mechanism for environmental protection is strategic environmental assessment. This assessment is a variety of environmental measures, among which, due to their preventive nature, they are of particular

importance. Design decisions, the implementation of which poses the greatest environmental hazard, are subject to SEE. As such, design solutions for such facilities as thermal power plants and other fuel combustion installations with an equivalent capacity of 100 or more megawatts can act; nuclear power plants and other nuclear installations; artificial reservoirs with a surface area of more than 50 ha; underground gas storages; for objects where the basic size of the sanitary protection zone is 300 meters or more, etc. However, the range of objects for which the SEE is carried out is wider and also includes urban planning projects, documentation for mobile installations for the use, disposal of waste, projects of water protection zones and coastal strips, hunting management, forest management projects and others. In contrast to the EIA, the object of the SEA are projects of state, regional and sectoral strategies, programs and urban planning projects. In this case, design solutions, on the one hand, are large-scale and complex (complex) in nature, and on the other hand, they can be of a general nature. During their implementation, specific design solutions are developed, which, in turn, may be objects of EIA. In some cases, the objects of SEA and SEE coincide. In particular, urban development projects. Perhaps, due to the fact that the SEE assumes a more specific nature of objects, the current legislation considers a rather narrow range of projects of a strategic nature as such. Previously, such expertise extended to draft concepts, forecasts, programs, sectoral development schemes, the implementation of which is associated with the use of natural resources and (or) could have an impact on the environment [6, art. five]. As you can see, in relation to the design solutions of the planned activity, EIA and SEE, or SEA and SEE, or only SEE, or only SEA can be carried out. There are design solutions for which none of them apply at all. Thus, in comparison with the legislation that has lost its force, there is a tendency to reduce the list of objects subject to SEE and EIA. This does not correspond to the concept of environmental risk, which implies the maximum coverage of various types of planned activities by environmental protection measures. In addition, the planned economic and other activities will be evaluated to a greater extent from the position of taking into account the environmental factor, if environmental measures are present at its various stages.

In the legislation of the Republic of Uzbekistan and in the theory of national law, there is no concept of strategic environmental expertise. But in foreign countries the concept of strategic environmental expertise is widely used. Nevertheless, the issue of fixing in the national legislation of one or another planned activity as an object of the environmental measures under consideration depends on a number of factors. In particular, the impact of the economic aspects of the planned activity. For example, according to the Decree of the President of the Republic of Belarus “On the Development of Entrepreneurship”, it is possible to optimize the range of SEE objects [7, p. 9]. It should be noted that the norms of this regulatory legal act are mainly aimed at developing entrepreneurial initiative and stimulating business activity. Payments and the time spent on the implementation of environmental measures do not contribute to such activity. Despite this, one should take into account the concept of sustainable development, which involves the optimal combination of economic, social and environmental interests. In addition, the minimal impact on the environment during the implementation of some design solutions, the specifics of certain areas can also affect the selectivity in determining the range of objects subject to SEA, EIA and SEE. Perhaps, for these reasons, there are rules according to which SEA is not carried out for projects of programs related to national defense, emergency situations and radiation safety of the population, as well as for draft master plans for urban-type settlements and rural settlements [8, art. 6].

When forming a circle of objects, it is necessary to focus on international agreements. Thus, Appendix 1 to the Convention on Environmental Impact Assessment in a Transboundary Context (hereinafter referred to as the Espoo Convention) should be taken into account. It contains a list of types of planned activities subject to EIA, which may have a significant adverse transboundary impact when implemented. Not all of them are specified. In particular, the concepts of “large area deforestation”, “oil and gas pipelines with large diameter pipes”, “large warehouses for storing oil, petrochemical and chemical products” may be defined differently by the laws of different countries. This raises the problem of the applicability of EIA in a transboundary context, if in the case of specifying such objects there will be discrepancies between countries. This problem can be solved by the norm of the Espoo Convention, according to which interested parties can enter into new bilateral or multilateral agreements or other arrangements in order to comply with their obligations [5, art. eight]. In such documents, parameters acceptable to countries can be agreed upon. When establishing the range of objects subject to SEA, one should also take into account the provisions of the Protocol on Strategic Environmental Assessment (hereinafter referred to as the Protocol on SEA) to this convention. The scientific literature notes that the scope of SEA in the Law on SEE, SEA, EIA is narrower and not sufficiently defined than provided for in the Protocol on SEA. It is proposed to expand the range of its objects by including design solutions contained in various state planning documents. It is noted that for this it is necessary to clearly define the legislation with the the possession of strategic planning documentation. Attention is focused on the fact that the concept of "plan and program", implemented in the Protocol on SEA, includes state planning documents not so much in name as in content [9, p. 115-117]. For example, forest management projects can be classified as strategic planning documentation, as they contain design decisions on the basis of which more specific activities can be carried out. Nevertheless, when considering the issue of the advisability of applying SEA in relation to forest management projects, it is necessary to take into account the fact that they also have an environmental focus. In addition, they substantively correspond to a number of parameters of the environmental report on SEA: characterization of the state of the components of the natural environment, assessment of environmental impacts during the implementation of design solutions, etc. [10–12]. With the accumulation of experience in the implementation of this environmental measure, we can return to the issue of expanding the list of its objects. When forming the range of objects subject to SEE, EIA and SEA, it is necessary to take into account the Decree of the President of the Republic of Belarus "On the criteria for classifying economic and other activities that have a harmful impact on the environment as environmentally hazardous activities." For example, in this regulatory legal act, environmentally hazardous activities include the transportation of gases, liquids, liquid solutions and other means with a diameter of 300 mm or more, and according to the Law on SEE, SEA and EIA, main pipeline transport is subject to EIA and SEE if the pipeline diameter is 500 or more millimeters [8, art. 7; eleven]. The difficulty of establishing the optimal range of such objects is confirmed by the not entirely successful experience of legally fixing draft regulatory legal acts as objects of the SEE. The possibility of conducting an environmental impact assessment of such is provided for by the Law of the Republic of Belarus “On regulatory legal acts of the Republic of Belarus” [13, art. 49]. However, there is no organizational and legal mechanism for implementing the norm. Moreover, in the Law on SEE, SEA, EIA there is no indication of such an object. Previously, the range of SEE objects included

draft technical regulations that establish environmental requirements for products, the processes of their development, production, operation, storage, transportation, sale and disposal or provision of services [6, art. five]. In this regard, the experience of the Russian Federation is interesting, where for a long time draft legal acts of a normative and non-normative nature, draft normative-technical and instructive-methodical documents approved by state authorities and regulating economic and other activities were considered as such. Non-compliance with the requirement for mandatory SEE of the draft international treaty was the basis for its invalidation. In our opinion, the absence of such a wide range of draft legal acts as objects of environmental expertise in the current Russian legislation is due to the problematic nature of its implementation. One of the possible reasons is the issue of the mandatory conclusion of the SEE for law-making bodies. At present, the examination under consideration can be carried out in relation to draft normative-technical and instructive-methodological documents in the field of environmental protection [14, art. 11, 12]. Perhaps more successful will be the experience of extending SEA to draft regulatory legal acts, which are not currently considered as such. Since the SEA procedure, unlike the SEE procedure, is initially focused on documentation of strategic importance, such as draft regulatory legal acts. According to the Protocol on SEA in relation to policy and legislation, the parties are freer in the formation of its procedure [15, art. 13]. It should be considered positive the desire to fix at the level of a legislative act a single, exhaustive and most specific list of objects subject to the SEE and EIA, which contributes to the uniformity and simplification of law enforcement, the resolution of many controversial issues and avoids abuse [16, art. 5, 7]. Previously, SEE objects were defined not only in regulatory legal acts regulating purely issues of environmental expertise, but also in legal acts on the protection and rational use of individual components of the natural environment, as well as fixing the procedure for carrying out economic and other activities that pose an environmental hazard. Nevertheless, there is a legal possibility to fix SEE objects in other legislative acts and international treaties of the Republic of Belarus. In this regard, the question arises of the acceptability of the norm contained in the Rules for the operation of gas cleaning plants, according to which the construction of gas cleaning plants is carried out in full compliance with the design documentation for the planned economic activity, agreed in the in this order on the basis of a positive conclusion of the SEE [17, p. 5]. Since the provision is contained in a by-law, there is no indication of this object in the Law on SEE, SEA and EIA. The complexity of establishing the range of objects of SEA, EIA and SEE is also associated with the variety of conditions for the possible implementation of design solutions for the proposed activity. In this case, the way out of the situation is to develop certain criteria for classifying a particular activity as subject to the environmental measures under consideration. It should be noted that attempts are being made to establish certain criteria in the legislation. According to Appendix 3 to the Espoo Convention, in the case of EIA in a transboundary context, the planned activities deserve attention: a) the scale of which is large for this type of activity, b) are carried out in or in the immediate vicinity of particularly sensitive or environmentally important areas, c) having a particularly complex and potentially harmful effect [5]. The issue of the criteria for classifying certain objects as subject to SEA is even more complex. It is problematic to identify specific criteria that determine that certain design solutions contained in the strategic planning documentation, when implemented, may harm the environment. However, the Protocol on SEA proposes a comprehensive criterion. Thus, such plans and programs should,

firstly, be developed for agriculture, forestry, fisheries, energy, industry, including mining, transport, regional development, waste management, water management, telecommunications, tourism, urban and rural development planning or land use, and secondly, to determine the basis for issuing future permits for the implementation of projects listed in Annex I, and any other projects listed in Annex II to this protocol that require an EIA in accordance with national legislation [15, art. 4]. Not all components of this criterion are reflected in special regulatory legal acts. So, they lack its second component, but the first part of the criterion is presented with some detail. In particular, it is clarified that relations in the energy sector should cover such aspects as activities in the use of atomic energy, energy supply, issues of the electric power industry, thermal power engineering, and renewable energy sources. Nevertheless, there is no indication of the sphere of telecommunications and water management [6, art. 6; 10, item 3]. Perhaps these areas are part of other areas that may be affected by programs subject to SEA. It should be noted that the Protocol on SEA focuses on the maximum number of objects that can be covered by SEA, which is positive from the standpoint of preventive environmental protection. Thus, there are plans and programs that define the basis for issuing future permits for the implementation of projects, but are not covered by this comprehensive criterion. States are encouraged to pre-assess their feasibility for SEA using the criteria set out in Annex 3 to the Protocol on SEA. In the Republic of Belarus, such a preliminary assessment is used only in cases where changes and additions are made to objects subject to SEA. At the same time, criteria were established that generally correspond to the specified Appendix 3. It seems that this limits the possibility of extending this procedure to design solutions that, when implemented, may have a negative impact on the environment [15, art. 4, 5; 10, item 8]. The lack of a legal definition of the objects of both SEE and SEA, EIA must be recognized as one of the shortcomings of legal regulation. It seems that simply listing them in legal acts is insufficient. Despite the periodic updating of the legislation, this issue remains open. First of all, the understanding of the object of SEE, SEA and EIA is based on the fact that these environmental measures are of a preventive nature. Despite the fact that such an approach is reflected in the current legislation, in accordance with the first editions of the Laws of the Republic of Belarus “On Environmental Protection” and “On State Ecological Expertise”, operating enterprises, military, scientific and other objects could act as objects of the SEE, and also the ecological state of individual regions and localities, settlements [17; 18]. In addition, not any proposed activity that can have an impact on the environment during its implementation should be defined as the object of the SEE, SEA and EIA, but only those that can have a negative impact on it. This is due to the complexity of the implementation of these environmental measures in relation to all design solutions, as well as the minimal impact on the environment during the implementation of some of them. According to national legislation under harmful environmental impact The environment should be understood as any direct or indirect impact on it of economic and other activities, the consequences of which lead to negative changes in the environment [18, art. one]. As you can see, this concept is rather arbitrary. In our opinion, the legal criterion for determining the harmful impact on the environment of a particular activity may be the compliance or non-compliance of such an impact with the requirements in the field of environmental protection and the use of natural resources, which are established in the legislation. Therefore, when determining how certain design solutions can be considered as a potential object of SEE, SEA and EIA, one should be guided by such legal requirements. It seems reasonable, when

characterizing the objects of SEE, SEA and EIA, to use the term "design solution", which is used fragmentarily in the current legislation. Since in the implementation of these environmental measures, certain solutions contained in various projects of planned activities are evaluated to take into account the environmental factor. Based on this, it seems erroneous, for example, to formulate in Art. 5 of the Law on SEE, SEA and EIA as an object of SEE documentation, since in the process of its implementation it is not the material carrier of information itself that is studied, but the content of such documentation. In addition, it is not entirely correct to note in Art. 7 of this regulatory legal act that the object for which the EIA is carried out are, for example, nuclear power plants and other nuclear installations. Thus, it contains an indication of the operating object, and not its design solution. At the same time, the legislation links EIA and SEA with the stage of development of project documentation, when design decisions are in the process of being formed, and the SEE with the stage of approval of such documentation, when design decisions are formed. Conclusion. Thus, using the terminology established in the legislation, it is possible to formulate a universal definition for the objects of SEE, SEA and EIA. These should be understood as design solutions for planned economic and other activities, the implementation of which may have a harmful impact on the environment, determined by compliance with the requirements established in the legislation in the field of environmental protection and the use of natural resources. The fixing of this definition in the legislation will contribute to a more accurate legal perception of the interested parties, as well as the correct legal consolidation of certain provisions. On the one hand, a favorable state of the environment implies the maximum coverage of various types of planned activities with environmental measures, as well as their presence at various stages of economic and other activities, and on the other hand, the presence of a number of factors, including the minimum impact on the environment during the implementation some design decisions, the variety of conditions for the possible implementation of design decisions for the proposed activity, issues of economic development predetermine the establishment of the optimal range of SEA, EIA and SEE objects and (or) criteria for classifying them as such. When forming it, one should also focus on international agreements. In particular, the Espoo Convention and the Protocol on SEA to this convention. In addition, it seems reasonable to systematize the norms contained in articles 5, 6, 7 of the Law on SEE, SEA and EIA and fixing the objects of these environmental measures. In a separate article of this regulatory legal act, it is possible to define the concept of an object common to these environmental measures. Then set out the range of objects in the sequence in which they occur in the process of environmental support of economic and other activities: starting with the earlier SEA, then EIA and ending with the SEE. Such a presentation should also take into account that these conservation measures have common objects. Due to the fact that SEA, EIA and ecological expertise are elements of environmental support for economic and other activities at the stage of development and coordination of design solutions for the planned activity, the identified issues can be classified as problems of legal fixing of the objects of such support.

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