

Types of Ecological Control in Uzbekistan and their Legal Basis

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ANNOTATION: The article examines environmental control in the Republic of Uzbekistan and the procedure for its implementation on the basis of analysis of scientific, theoretical and regulatory documents. The population was provided with information on each type of environmental control. Attempts have been made to highlight the importance and specifics of environmental control. The participation of state bodies and the public in the conduct of environmental control and the forms of their conduct are covered. Also, the best practices of foreign countries in the field of environmental control were studied and based on them, attempts were made to develop proposals to improve the national legal system.

KEY WORDS: Ecological control, state ecological control, production control, departmental control, public control, ecological expertise, ecological monitoring, observation.

In the implementation of environmental control, it is important to identify important issues such as its legal regulation and implementation mechanism, as well as its legal consequences. In this regard, the normative documents reflect issues related to environmental control, which define the procedure for its implementation, ie the rights and obligations of the state, public and labor communities. Accordingly, normative documents are the main source for the formation of environmental control practices.

Types of environmental control and its legal basis are reflected, first of all, in the Law of the Republic of Uzbekistan "On Nature Protection". Chapter 7 of this law is entitled "Environmental control", and according to Article 31 of the Law, the legal relations arising in connection with the implementation of environmental control, the exercise of the powers of the subjects of environmental control are regulated by law[1].

With regard to the legislation in the field of environmental control, Article 6 of the Law of the Republic of Uzbekistan "On Environmental Control" defines the main directions of state policy in the field of environmental control, procedures and types of environmental control.

According to Article 9 of this law, the types of environmental control are:

state environmental control;

departmental environmental control;

environmental control of production;

public environmental control[2].

232	ISSN 2690-9626 (online), Published by "Global Research Network LLC" under Volume: 3 Issue: 2 in February-2022 https://grnjournals.us/index.php/AJSHR
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Special normative documents regulating these types of control have been adopted, which describe the procedures for carrying out environmental control.

The Law on Environmental Control provides for the direct application of the following normative documents for the implementation and practical application of types of environmental control. They are: 1. Regulation "On the procedure for state environmental control", approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated August 5, 2014 No 216 "On approval of the Regulation on the procedure for state environmental control"[3]. 2. "Standard Regulations on the Procedure for Implementation of Departmental Environmental Control" and "Standard Regulations on the Procedure for Implementation of Industrial Environmental Control" attached to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated October 8, 2015 No 286 "On Approval of Normative Legal Documents in the Sphere of Environmental Control" ", " Model Regulations on Environmental Services ", " Regulations on Environmental Audit "[4]. 3. Public environmental control is carried out in accordance with the requirements of the Regulation "On the procedure for public environmental control", adopted by the Cabinet of Ministers of the Republic of Uzbekistan dated October 8, 2015 No 287[5].

State environmental control. The main type of environmental control and the most effective type of control, the implementation of which is mandatory, is the state environmental control.

On the main function of state environmental control, M.K. Najimov states: "Ensuring the economic and environmental interests of society, protection of natural objects by the state means, rational use of natural resources, ensuring the right of citizens to a favourable environment, harm to the environment in production prevention of transmission"[6].

M.K. Najimov pays special attention to the issue of recognizing the protection of the environment as an independent and basic function of the state in a market economy. According to legal scholars, this sphere of social life distinguishes this function as an independent and basic function, as it has its own organizations and institutions, as well as specific relationships and psychological aspects. In this regard, at a time when much attention is paid to the expansion of entrepreneurship and manufacturing, it is necessary to further increase the function of environmental control of the state. This is because the main goal of businesses operating in any production and construction sector is to make a profit, and the fact that their damage to the environment and nature is very high, determines the conditions for strengthening state control in the field of environmental control.

State ecological control means the effective use of natural resources by the legislative, executive and special bodies of the state, as well as local public authorities and administration, and the implementation of legislation aimed at protecting the environment. The essence and purpose of state environmental control is to protect the ecological interests of society, the environment, the rational use of natural resources, but also the right of citizens to a favorable natural environment and to ensure that production does not harm the environment.

Several tools are used to achieve the goals of state environmental control, and they include:

- 1) Monitoring and accounting for warning purposes;
- 2) application of coercive measures;
- 3) Implementation of legal liability measures;
- 4) Permission and standardization.

In this regard, the state environmental control is one of the special institutions of environmental law, which is regulated by the norms of environmental law. Its main purpose is to monitor changes in the natural environment, to prevent its condition from deteriorating.

Accordingly, the specific features of state environmental control can be expressed as follows:

- environmental control is carried out on behalf of the state by public authorities and administration;
- is the main state legal and organizational tool in the implementation of the goals and objectives of state environmental policy;
- the state is a legal guarantee for compliance with environmental requirements;
- application of coercive measures to ensure compliance with environmental and legal requirements;
- environmental control as a manifestation of the state ecological function.

The main tasks of the state environmental control in accordance with paragraph 3 of the Regulation "On the procedure for state environmental control", approved by the Cabinet of Ministers of the Republic of Uzbekistan dated August 5, 2014 No 216 include:

- prevention, detection and suppression of violations of the legislation in the field of environmental protection and rational use of natural resources;
- monitoring the state of the environment, identifying situations that could lead to environmental pollution, misuse of natural resources, threaten the lives and health of citizens;
- determination of compliance of planned or carried out economic and other activities with environmental requirements;
- Ensuring compliance with the rights and legitimate interests of legal entities and individuals in the field of environmental protection and rational use of natural resources, their fulfillment of obligations;
- Informing government agencies and other organizations and citizens about changes in the environment, its forecast, the use of natural resources and appropriate measures to improve the effectiveness of nature protection activities[7].

Accordingly, the state can fully reflect the characteristics of environmental control by performing its functions in the field of environmental control, as well as the implementation of its functions in this area.

Departmental environmental control. The next type of environmental control is departmental control, in which departmental control over the state of the environment is the observation, verification of compliance of the process of use of natural resources with the requirements of environmental regulations, the establishment of measures[8].

The purpose of departmental ecological control is to ensure the implementation of standards, rules and action plans for the protection of the environment and the use of natural resources, the relevant documents of the competent state bodies in the objects of departmental control.

The object of departmental control is the activities of organizations, institutions and enterprises that are legally subordinate to ministries, committees and agencies, as well as legal entities that are not subordinate to ministries, committees and agencies, but located in their respective territories. Therefore, departmental environmental control is carried out only in the objects of departmental

environmental control. Departmental environmental control is carried out according to the hierarchy of each state body. Documents issued by the departmental environmental control bodies are mandatory only for managers and employees of departmental facilities.

During the departmental environmental control, special attention is paid to the implementation of environmental standards, regulations and requirements at the facilities of departmental environmental control, the introduction of waste-free, energy-saving technologies, reducing emissions, prevention of adverse effects on the environment. The departmental ecological control body carries out its activity in cooperation with the state ecological control bodies.

Therefore, when it comes to departmental environmental control, it should be noted that departmental environmental control is carried out by the environmental service of ministries, state committees and agencies. Departmental environmental control consists of the subordination of each ministry, state committee and agency to the observance of environmental legislation in its area of responsibility.

The procedure for departmental environmental control is clearly defined in the requirements of the "Standard Regulations on the procedure for departmental environmental control", approved by the Cabinet of Ministers of the Republic of Uzbekistan dated October 8, 2015 No 286. In accordance with paragraph 4 of this Regulation, the state and economic management bodies in the field of departmental environmental control must carry out the following in the departmental organizations, state and economic management bodies:

- prevention, detection and suppression of violations of the legislation in the field of environmental protection and rational use of natural resources;
- identification of situations that could lead to environmental pollution, misuse of natural resources allocated to them, threaten the lives and health of citizens;
- Ensuring the fulfillment of obligations in the field of environmental protection and rational use of natural resources, the implementation of departmental environmental programs;
- informing government agencies and other organizations and citizens about changes in the environment as a result of the activities of departmental organizations, its forecasted status, use of natural resources and measures taken within its competence;
- Improving the effectiveness of nature protection activities[9].

The implementation of these tasks, in addition to defining the main aspects of departmental control, represents a direct application of the principle of environmental protection in the field of ecology. At the same time, it can be assumed that government agencies and enterprises perform the function of restraining each other in compliance with the requirements of environmental law.

Therefore, departmental environmental control consists of subordinate verification of compliance of each ministry, state committee and agency with the environmental legislation in the field to which it belongs.

Environmental control of production. Production control is closely related to departmental control and is carried out in enterprises, institutions and organizations engaged in production and economic activities. In accordance with paragraph 4 of Article 19 of the Law of the Republic of Uzbekistan "On Environmental Control", environmental control of production is carried out by business entities in their economic and other activities[10].

Also, in accordance with paragraphs 3-4 of the "Model Regulations on the procedure for environmental control of production", the following requirements are set for the implementation of environmental control of production:

Environmental control of production is carried out by the environmental service of the business entity.

The environmental service is organized in a department, department, division, or another form, and may also consist of one employee.

Environmental control of production is carried out by employees of business entities in accordance with the job responsibilities, job descriptions, and other internal documents provided for in the employment contract, job descriptions [11].

The following are forms of production environmental control:

- monitoring the state of the environment and situations that could lead to environmental pollution and misuse of natural resources, endangering the lives and health of citizens;
- monitoring compliance with environmental standards governing the maximum possible impact on the environment by production and other divisions of the business entity;
- control of production and other divisions of the business entity;
- ecological audit.
- Other forms may be used in the implementation of environmental control of production in accordance with the legislation [12].

Therefore, it can be said that environmental control of production in the field of environmental protection is used in the course of economic and other activities to protect the environment, ensure the rational use of natural resources and restore natural resources as well as compliance with environmental legislation.

This control is carried out through the application of a set of measures for the safe operation of hazardous production facilities, as well as the readiness of these facilities for accidents and their consequences.

Therefore, despite the existence of the Regulation on Environmental Audit in the implementation of environmental control of production, it is not followed in practice. Therefore, in order to fully address the issue of environmental audit, it is expedient to develop and implement regulations on the procedure for conducting environmental audits after the entry into force of the Law on Environmental Audit. Business entities are required to submit to the state environmental control authorities information on the persons responsible for the environmental control of production, the organization of environmental services for economic and other activities, as well as the results of environmental control of production.

Public environmental control. Implementation of the norms and requirements of the Law of the Republic of Uzbekistan "On Environmental Control" will directly depend on the effectiveness of public organizations, citizens' self-government bodies in the system of environmental protection and the solution of environmental problems.

An analysis of the legislation of the CIS countries on issues related to public environmental control and its application shows that the laws adopted in these countries cover many aspects of the

environment and serve to ensure the functioning of all environmental management systems and public participation.

In addition, the public movement in the field of ecology also plays an important role in the economic development of the United States, Japan, Germany, France, the United Kingdom and other countries, in improving environmental legislation.

Environmental legislation is also well developed in Central and Eastern European countries such as Poland, Hungary, Slovakia and the Czech Republic. Some countries, such as Malaysia, New Zealand, and the Philippines, have adopted a set of environmental laws, ie environmental codes, which provide for public participation in the comprehensive coordination of environmental protection[13].

Conducting and implementing public environmental control is also developing in our national legislation. In this regard, the forms of public environmental control are carried out in accordance with Article 20, Part 4, 5 of the Law "On Environmental Control" in the following forms:

- monitoring the state of the environment and its changes under the influence of economic and other activities, compliance with the requirements of legislation in the field of environmental protection and rational use of natural resources by legal entities and individuals, implementation of state environmental programs and other environmental programs;
- participate as an observer in the implementation of state, departmental and industrial environmental control;
- to hear information and reports of the heads of relevant state authorities and enterprises, institutions and organizations on issues of environmental protection, sanitation, landscaping and landscaping of the territory;
- conducting public environmental review.

Public environmental control can be carried out through the analysis and assessment of the state of the environment and the rational use of natural resources, as well as the study of public opinion[14].

As a type of environmental control, public environmental control plays an important role in regulating environmental relations and monitoring activities in this area. Public environmental control in contrast to state environmental control, provides a recommendatory conclusion. Also, unlike departmental and industrial environmental control, it is not limited to a specific part of the object of environmental control but, on the contrary, applies to both the scope of state environmental control and the field of environmental control over production.

A number of legal scholars, including MN Klepikov, VP Maksimenko, S. Razmetaev, AG Tarnavsky, OD Utegenov, said that public environmental control is a social task aimed at ensuring broad public participation in nature protection recognized as.

In the legal literature, public environmental control is studied in the following groups, depending on the size and nature of its functions:

- first, to the subject of control, which combines the functions of special public control and nature protection with their main activities;
- Second, sectoral control and universal control, ie organizations that carry out various nature protection activities. These organizations have extensive experience in assisting private government agencies [15].

According to M. Brinchuk, given that human rights and freedoms are of the highest value, it is necessary to develop and implement a modern concept of public environmental control in environmental legislation, as well as to ensure their effectiveness, in order to realize the right of everyone to an acceptable environment [16].

O.Kh.Narzullaev also noted that the study of the development of legislation in the field of nature protection is growing public interest and concern for environmental issues, and they are actively cooperating with government agencies in the formation of environmental awareness among the population and nature protection [17].

In accordance with paragraph 6 of the Model Regulation "On the procedure for public environmental control", the main tasks of public environmental control are:

- prevention, detection and suppression of violations of the legislation in the field of environmental protection and rational use of natural resources;
- monitoring the state of the environment, identifying situations that could lead to environmental pollution, misuse of natural resources, threaten the lives and health of citizens;
- determination of compliance of planned or carried out economic and other activities with environmental requirements;
- Ensuring compliance with the rights and legitimate interests of legal entities and individuals in the field of environmental protection and rational use of natural resources, their fulfillment of obligations;
- Participate in informing government agencies and other organizations and citizens about changes in the environment, use of natural resources and appropriate measures;
- increase the effectiveness of nature protection activities and ensure the participation of citizens' self-government bodies, non-governmental non-profit organizations and citizens in the implementation of state environmental programs and other environmental programs[18].

In conclusion, environmental control is a complex system that serves to ensure compliance with the requirements and rules of environmental legislation and to ensure environmental safety.

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