



## IMPROVING LEGAL LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAWS: FOREIGN EXPERIENCE

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**Abstract:** This article analyzes issues of improving legal liability for violation of environmental laws based on the experience of foreign countries. The article examines in detail the legislative systems and practices of the USA and European countries regarding criminal, administrative and civil liability for environmental offenses. In particular, the relevant legislation of countries such as Spain, Germany, Austria, Denmark, Latvia, Estonia, Bulgaria, Switzerland and Poland is analyzed. The article also considers the issue of liability of legal entities for environmental offenses. Based on the study of foreign experience, proposals have been developed to improve the legislation of Uzbekistan<sup>1</sup>.

**Keywords:** Environmental offense, legal liability, criminal liability, administrative liability, civil liability, foreign experience, legislation, nature protection.

As in many fields, studying the experience of developed European countries and the United States in the field of legislation, and implementing its progressive aspects in our legislation, is of urgent importance. Although the criminal legislation on environmental protection in European countries differs significantly from the legislation of the Republic of Uzbekistan, studying their experience and adopting necessary aspects will not be in vain.

The US legislation stands out with its distinctive features in establishing disciplinary liability for employees who have committed environmental offenses. According to the US Constitution, states also have the right to develop and implement laws that apply within their territories. For this reason, the US does not have a federal Labor Code. States have adopted more than 200 laws to regulate labor relations, with decisions of the US Supreme Court serving as the main document. The procedures established in collective agreements and local documents have a great influence. The legislation of each state differs in its own characteristics. For example, in the state of California, compensation is also provided for an employee dismissed as a result of an environmental offense.

In establishing disciplinary liability for an employee who has committed an environmental offense, the Labor Code is considered an important source in the French Republic and the Federal Republic of Germany. In Italy, in such cases, the Constitution, Government and Ministry of Labor decisions, and collective agreements are applied.

Civil liability for environmental offenses committed in the United States and European countries is also clearly defined and regulated by relevant legislation. For example, in the United States, damage to nature resulting from illegal hunting or otherwise harming a single eagle is set at \$5,000.

Looking at the Criminal Code of Spain, one of the developed European countries, crimes in the field of ecology are not combined into a separate chapter or section. They are

<sup>1</sup> Zoilboev, J. (2024). Uzbek energy reform: Policy implications for renewables and new regulations. In *E3S Web of Conferences* (Vol. 497, p. 01025). EDP Sciences.

defined in various chapters of the Criminal Code. Crimes related to ecology are mainly given in Chapters III (On Crimes Against the Environment and Natural Resources) and IV (On Crimes Related to the Protection of Flora and Fauna). In addition, liability for environmental crimes is established in other sections and chapters of the Code. For example, some acts in the field of forest use and protection are given in Chapter II of Section II of the Spanish Criminal Code, "On Forest Fires". In addition, Section XVI of the Code is titled "Crimes Related to Territorial Management and Protection of Historical Heritage and Environment" and includes environmental crimes.

One of the peculiarities of Spanish criminal law is that, unlike our criminal law, it establishes liability for criminal acts of legal entities<sup>2</sup>.

Among European countries, the Federal Republic of Germany is considered to have established the most severe liability for environmental crimes. The Criminal Code of the Federal Republic of Germany has a separate Section 29 titled "Criminal Acts Against the Environment" for environmental crimes<sup>3</sup>. Articles in this section establish liability for polluting soil, water, atmospheric air, emitting noise, vibration and radiation, unauthorized dumping of waste, emitting toxic substances and poisons, endangering protected natural areas and other actions aimed against the environment. According to German criminal law, a person who intentionally commits a crime against the environment is deprived of liberty for up to five years. If the committed crime is found to be especially serious, a sentence of up to ten years imprisonment is imposed for this crime. A crime committed through negligence is the basis for imposing a prison sentence of up to three years.

Austria is another European country where types of crimes against the natural environment are scattered in the Criminal Code. Nevertheless, the main part of environmental crimes is defined in the seventh section of the Criminal Code. The main environmental crimes in Austria are as follows:

1. intentional or negligent damage to the natural environment (§180-181);
2. causing serious bodily injury using noise (§181a);
3. intentional hazardous treatment of waste in relation to the natural environment (§181b);
4. other threats to the state of fauna or flora (§182). In addition, some other environmental crimes can be found in the chapter on crimes against property in the Austrian Criminal Code. For example:
  5. violation of others' rights to hunt or fish (§137);
  6. violation of others' rights to hunt or fish under aggravating circumstances (§138);
  7. use of force by poachers (§140)<sup>4</sup>.

Denmark is another European country with advanced experience in the field of nature protection. The Danish Criminal Code establishes strict liability for environmental crimes, but they are not combined into a separate chapter. The main part of the existing environmental crimes in Danish legislation is defined in Chapter XXI of the Danish Criminal Code (Various Acts Causing Public Harm).

<sup>2</sup> Criminal Code of Spain

<sup>3</sup> Criminal Code of the Federal Republic of Germany

<sup>4</sup> Criminal Code of Austria

Danish criminal law provides for more severe punishments for environmental crimes compared to other countries. Danish criminal law, like many other European countries, also establishes criminal liability for legal entities. The main type of punishment applied to a legal entity is usually a fine<sup>5</sup>.

The United States has its own experience in establishing liability for environmental protection and environmental offenses, which differs sharply from the procedures of other countries' legislation. In the US, liability for environmental crimes is not regulated by a single codified criminal law document, but norms establishing criminal liability for damage to nature are defined in laws adopted to regulate various branches of the environmental field. It should be noted that the US has not adopted a general Criminal Code at the federal level; each state operates and imposes penalties according to its own criminal law.

US law also provides for criminal liability of legal entities for committing environmental crimes. A fine is applied to them as a criminal punishment measure. In addition, legal entities are obliged to compensate for damage caused to the environment or to work at their own expense to eliminate such damage. Often, court verdicts set a probationary period for them.

In general, the United States has a long history, perfect legislation, and extensive practice in establishing criminal liability for environmental offenses.

The experience of the United States and European countries in establishing administrative liability for environmental offenses is also worthy of study and exchange of experience. If we look at the legislative practice of European countries regarding administrative liability for environmental offenses, we can see that the liability established in the legislation of each country differs from one another due to factors such as the location and nature of the countries.

Studying the administrative legislation of the Baltic countries, we can witness that the main attention is paid to the protection of forests and other plants. For example, administrative liability is established for forest pollution in the Republic of Latvia. Liability for similar offenses is also established in the Administrative Code of Estonia.

Bulgaria is one of the countries where environmental offenses are included in the category of economic offenses in the Administrative Code. The following environmental offenses are subject to administrative liability in Bulgaria:

- illegal logging, taking or removing trees or parts of them from the state fund without proper written permission or, if there is permission, in a location, time or amount not specified;
- destruction of forest and its protective plants in any way;
- killing or hunting large wild animals without proper permission; illegal fishing;
- violation of rules for proper development of fish stock restoration, protection of fish and other useful aquatic animals in the country<sup>6</sup>.

Austria also has its own experience and practice in establishing administrative liability for environmental offenses. Austria is considered a state that has combined administrative acts against the natural environment into a separate section in its Administrative Code, with liability for environmental administrative offenses established in the seventh section of the

<sup>5</sup> Criminal Code of Denmark

<sup>6</sup> Administrative Code of the Republic of Bulgaria

Administrative Code and in the chapter on offenses against property (for some environmental offenses). In particular, the seventh section establishes liability for acts such as negligently creating a dangerous situation for fire, arson, intentionally or negligently causing danger to society.

The following are recognized as environmental offenses in Austria:

- intentional or negligent damage to the natural environment;
- causing serious bodily injury using noise;
- intentional hazardous treatment and delivery of waste in relation to the natural environment;
- other threats to the state of fauna or flora and others<sup>7</sup>.

In the Swiss Administrative Code, offenses such as spreading pests, spreading epizootics, producing feed harmful to animal health, and polluting drinking water are defined as environmental offenses and are included in the group of offenses against public health in the Administrative Code.

Two chapters of the Spanish Administrative Code, titled "Offenses Against the Environment and Natural Resources" and "Offenses Related to the Protection of Flora and Fauna," include environmental offenses. The establishment of liability for environmental offenses is not limited to only these chapters of the Spanish Administrative Code; separate environmental offenses and liability for them are also established in other sections and chapters of the Spanish Administrative Code.

In the Administrative Code of the Republic of Poland, environmental offenses are also combined into a separate chapter consisting of eight articles. In particular, it provides for the following administrative elements:

- destruction of flora and fauna;
- pollution of water, air or land with ionized substances;
- collection, destruction, processing, neutralization or transportation of waste contrary to established rules and regulations;
- engaging in economic activities that threaten the natural environment<sup>8</sup>.

The United States also has a unique procedure and practice in establishing administrative liability for environmental offenses that differs from other countries. In the 1950s, population growth began to have a negative impact on the environment. As a result of these problems, administrative liability for environmental offenses was established in the 1970s. The United States Environmental Protection Agency is considered the responsible body for establishing administrative liability for environmental offenses, and it has regional divisions throughout the United States. Each regional division is divided into units dealing with water, air, waste, and toxic gases.

In general, there are many positive practices in US and European legislation that can be studied and applied in practice to improve liability for violation of environmental law requirements.

<sup>7</sup> Administrative Code of Austria

<sup>8</sup> Administrative Code of Poland



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- 2.Criminal Code of Spain;
- 3.Criminal Code of the Federal Republic of Germany;
- 4.Criminal Code of Austria;
- 5.Criminal Code of Denmark;
- 6.Administrative Code of the Republic of Bulgaria;
- 7.Administrative Code of Austria;
- 8.Administrative Code of Poland.

