ENVIRONMENTAL IMPACT ASSESSMENT IN AN INTERNATIONAL CONTEXT

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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.

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

Modern issues of environmental protection are becoming increasingly important both at the state level and for the international community, which has adopted a new sustainable development agenda for the period up to 2030. – Transforming Our World: The 2023 Agenda for Sustainable Development, which defines 17 Sustainable Development Goals (SDGs) accompanied by 169 targets. Environmental protection is one of the three key elements of the concept of sustainable development, which is reflected in the SDGs. This, in particular, is emphasized in the 2017 Minsk Declaration adopted at the seventh session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the third session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Assessment.

The Report of the United Nations International Law Commission in 2016 on the protection of the atmosphere at its sixty-eighth session in 2016 emphasizes the obligation of environmental impact assessment in a guideline: states have an obligation to ensure that an environmental impact assessment is carried out for proposed activities under their

jurisdiction or control that may have significant adverse effects on the atmosphere in terms of atmospheric pollution or atmospheric degradation.

At present, the transboundary aspect is particularly relevant. In this regard, the essence of environmental impact assessment in general and in the transboundary context considered by us in the framework of the EIA study, in particular, lies in the obligation of a comprehensive, integrated understanding of such impact in terms of the intended economic and other activities.

As pointed out by the International Court of Justice in the Costa Rica Road along the San case, it is the duty of a state to exercise due diligence to prevent significant transboundary harm before undertaking activities that have the potential to cause environmental harm to another state. If such a hazard exists, the State concerned must carry out an environmental impact assessment.

The genesis of environmental impact assessment in the legal space states the most difficult path for almost fifty years of existence - from the norms of the national law of a number of states to the consolidation of key positions in the following international treaties: Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) 1991, Convention on Early Notification of Nuclear Accidents 1992, Convention on Long Range Transboundary Air Pollution 1979, Framework Convention for the Protection of the Marine Environment of the Caspian Sea 2003, Convention on the Protection and Use of Transboundary Watercourses and International Lakes 1992, Convention on Access to Information , public participation in decision-making and access to justice in environmental matters (Aarhus Convention) 1998, Madrid Protocol 1991. to the Antarctic Treaty of 1959), in the environmental programs of the European Union, in soft law documents, draft regional international agreements (in the region of the Caspian Sea, the states of North America that form NAFTA).

In connection with the specific needs and obligations of states in various areas of environmental protection, the regulation of EIA in international legal documents has become more complicated and detailed. This trend has led to the fact that already at the turn of the XX - XXI centuries. the international legal customary nature of EIA obligations has been confirmed in a number of cases by the International Court of Justice, the International Tribunal for the Law of the Sea, as well as international arbitrations of various branches. In this last case, the International Court of Justice noted that there is an international custom for the need for an EIA, but there is no consensus on its legal content. This fact, of course, emphasizes the importance of conducting scientific research on the comparison of existing EIA procedures, identifying the best

practice for conducting EIA in accordance with current international law.

"In addition, a number of international intergovernmental organizations, such as the World Bank, have become actively involved in the promotion of EIA through the adoption of their internal rules or guidelines." The European Bank for Reconstruction and Development, as a mandatory requirement for obtaining a loan, indicates an environmental impact assessment, called an environmental impact analysis (EIA), which is one of the most important types of environmental assessments.

Environmental impact assessment is an institution of international environmental law, the subject of which is the relationship of states and other subjects of international law to assess the likely transboundary impact of a planned activity on the environment, whose physical source is located wholly or partially within the jurisdiction of one of the parties. The principles of regulation of the institution of environmental impact assessment are: the presumption of potential environmental hazard of the impact of the planned activity on the environment, the obligation to comply with the national EIA procedure, preventiveness, objectivity, alternativeness, comprehensiveness, transparency, consideration of public opinion. The method of legal regulation of the EIA institute is the agreement of its participants on fixing the planned activity in the national legislation of the parties to the EIA procedure with the appointment of the relevant authorities and responsible persons. The sources are international agreements that differ in certain specifics of legal regulation.

Environmental impact assessment, as well as issues of its implementation, as an institution of international environmental law, were initially enshrined in national legislation, and only then developed in international law. At the same time, it was found that the implementation of environmental impact assessment in the international context differs from the national procedure in a number of aspects that determined the specifics of the international legal regulation of this procedure: the need to take into account the sovereignty of states of potential impact; the objective existence of an increased need for bilateral, regional and universal cooperation; the need to take into account the views of the public of the state whose interests will be affected; the need for interstate consultations; cross-border implementation of the assessment procedure.

Under the strategic environmental assessment, it is necessary to understand the analysis of the expected environmental consequences, including all stages of the formation of an environmental report, including the participation of various public institutions, consultations with

specialists, as well as taking into account the provisions of such a report and the results of consultations with the public in the plan or program. Like EIA, SEA seeks to prevent or mitigate the negative impact of an activity on the environment until a decision is made on the possibility of implementing such an activity. Due to the fact that strategic environmental assessment affects decision-making at an earlier stage than EIA, it can be said that it contributes to sustainable development and is an important tool in the development of plans and programs.

The institution of transboundary EIA, originally enshrined in the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991), which is the most important binding international treaty for its participants, is being developed during the annual Meetings of the Parties to the Espoo Convention, as through the adoption of binding amendments to the Convention (the 2001 amendment entered into force on 08/26/2004 and the 2004 amendment entered into force on 10/23/2017) and protocols (Protocol on Strategic Environmental Assessment 2003), and soft law documents ("Guidelines", etc.).

It seems necessary to develop a model legislative act for the CIS member states and introduce clarifications into the conceptual apparatus for a clear distinction between such concepts as "strategic environmental assessment", "environmental impact assessment", "state environmental expertise"; creation of norms that would clearly regulate the procedure (procedure) for conducting an EIA and its individual stages. In addition, it is necessary to develop a national procedure for conducting transboundary EIA, which would be consistent with ratified international treaties, and recommend that the CIS member countries bring their domestic environmental legislation in line with this model legal act.

REFERENCES

1. Protocol on Strategic Environmental Assessment 2003;
2. UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991);
3. Gillespie A. The long Road to Sustainability. The Past, Present, and Future of International Law and Policy. Oxford University Press, 2018;
4. World Bank, Operational Policies – Environmental Assessment, OP4.01, (1999) URL: http:// web.worldbank. org/WBSITE/EXTERNAL/TOPICS/ENVIRONMENTAL/EXTENVASS 0., contentMDK:20482643-menuPK:148956-piPK:216618-theSitePK/407988,00.html;
5. Convention on Early Notification of Nuclear Accidents, 1992;

6. Convention on Long Range Transboundary Air Pollution, 1979;
7. Framework Convention for the Protection of the Marine Environment of the Caspian Sea, 2003;
8. Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1992;
9. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Matters Concerning the Environment (Aarhus Convention) 1998;
10. Madrid Protocol 1991 to the 1959 Antarctic Treaty.