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LEGAL PROTECTION OF THE ATMOSPHERIC AIR IN THE CONTEXT OF ANALYSIS OF THE ENVIRONMENTAL LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

The article presents a system-wide analysis of the environmental legislation of the Republic of Kazakhstan in the field of legal protection of atmospheric air. It is especially emphasized that this vital component of the surrounding human, flora and fauna of the natural environment is still not sufficiently methodologically and legally guaranteed against negative physical, chemical, biological and other influences. In the aspect of determining the relevance of the issue under consideration, an important conclusion was also made that the norms of the Environmental Code of the Republic of Kazakhstan in relation to the protection of atmospheric air require further development and detail. In the current legal version, their potential regulatory significance is not significant, which allows us to speak both about the lack of the desired effect on their part, and about the lack of development, with the help of the national legislator, of an effective mechanism for the legal protection of atmospheric air in comparison with the protection of natural resources: land, subsoil, waters, forests, flora and fauna. The aim of the authors is to reveal the modern content of the legal protection of atmospheric air, as well as to determine the main problems and future prospects in the context of the analysis of the environmental legislation of the Republic of Kazakhstan using scientific views, domestic legislative acts and the results of law enforcement practice. During the development of the topic, the authors used a set of general scientific and special methods of scientific cognition, in particular the comparative legal method, as well as methods of modeling and system analysis. In the conclusions, the authors emphasize that one of the ways to possibly eliminate the gaps and, accordingly, create a balanced system of norms for the protection of atmospheric air on an equal basis with other natural objects can be the currently being developed and revised new edition of the Environmental Code of the Republic of Kazakhstan.

Key words: atmospheric air, legal protection, environmental legislation of the Republic of Kazakhstan, environment, Environmental Code of the Republic of Kazakhstan.

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Қазақстан Республикасының экологиялық заңнамасын талдау контексіндегі атмосфералық ауаны құқықтық қорғау

Мақалада атмосфералық ауаны құқықтық қорғау саласындағы Қазақстан Республикасының экологиялық заңнамасына жалпыжүйелік талдау жасау ұсынылған. Әсіресе адамды, флора мен фаунаны қоршаушы табиғи ортаның аталмыш өміршең қажетті құрамдасының әлі де болса келеңсіз физикалық, химиялық, биологиялық және де өзге әсерлерінен жеткілікті әдістемелік және құқықтық деңгейде кепілдендірілмегендігі атап көрсетіледі. Қарастырылып отырған мәселенің өзектілігін анықтау барысында атмосфералық ауаны қорғауға қатысты Қазақстан Республикасы Экологиялық кодексінің нормалары одан әрі дамуды және нақтылауды талап етеді деген маңызды қорытынды жасалған. Қазіргі қолданыстағы құқықтық редакцияда олардың ықтимал реттеуші мәні болмашы ғана. Бұл олардың тарапынан тиісті әсердің болмауы туралы да, ұлттық заң шығарушының көмегімен Жер, жер қойнауы, су, орман, өсімдіктер мен жануарлар әлемі сияқты табиғи ресурстарды қорғаумен салыстырғанда атмосфералық ауаны құқықтық қорғаудың тиімді тетігінің жетілмегендігі туралы да айтуға мүмкіндік береді. Авторлардың мақсаты – атмосфералық ауаны құқықтық қорғаудың заманауи мазмұнын ашу, сонымен қатар ғылыми көзқарастар, мемлекетшілік заңнамалық актілер және құқық қолдану тәжірибесі нәтижелерінің көмегімен Қазақстан Республикасының экологиялық заңнамасын талдау контексіндегі негізгі проблемалар мен әрі қарайғы перспективаларды анықтау болып табылады. Тақырыпты әзірлемелеу ағымында авторлар ғылыми танымның жалпығылыми және арнайы әдістемелерінің жиынтығын қолданды, олардың ішінде, атап айтқанда, салыстырмалы-құқықтық әдіс, үлгілеу және жүйелік талдау әдістеріне жүгінді. Қорытындыларда авторлар

олқылықтарды жою және, тиісінше, басқа табиғи объектілермен қатар, атмосфералық ауаны қорғау туралы нормалардың теңдестірілген жүйесін құру тәсілдерінің бірі ретінде қазіргі уақытта әзірленіп жатқан және қайта қаралған ҚР Экологиялық кодексінің жаңа редакциясы бола алатындығына назар аударады.

Түйін сөздер: атмосфералық ауа, құқықтық қорғау, Қазақстан Республикасының экологиялық заңнамасы, қоршаған орта, Қазақстан Республикасының Экологиялық кодексі.

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Правовая охрана атмосферного воздуха в контексте анализа экологического законодательства Республики Казахстан

В статье представлен общесистемный анализ экологического законодательства Республики Казахстан в сфере правовой охраны атмосферного воздуха. Особо подчеркивается, что жизненно важный компонент, окружающий человека, как флора и фауна природной среды, все еще недостаточно методологически и юридически защищены от негативных физических, химических, биологических и иных воздействий. В аспекте определения актуальности рассматриваемого вопроса также сделан важный вывод о том, что нормы Экологического кодекса Республики Казахстан применительно к защите атмосферного воздуха требуют дальнейшего рассмотрения и детализации. В ныне действующей юридической редакции их потенциальное регулирующее значение несущественно, что позволяет говорить как об отсутствии должного эффекта с их стороны, так и о не выработанности при помощи национального законодателя действенного механизма правовой охраны атмосферного воздуха по сравнению с защитой природных ресурсов: земли, недр, вод, леса, растительного и животного мира. Целью статьи является рассмотрение современного содержания правовой охраны атмосферного воздуха, а также определение основных проблем и дальнейших перспектив в контексте анализа экологического законодательства Республики Казахстан с помощью научных взглядов, внутригосударственных законодательных актов и результатов правоприменительной практики. В ходе разработки темы авторами использовалась совокупность общенаучных и специальных методов научного познания, в частности сравнительно-правовой метод, а также методы моделирования и системного анализа. В выводах авторы акцентируют внимание на том, что одним из способов возможного устранения пробелов и соответственно создания наравне с иными природными объектами сбалансированной системы норм об охране атмосферного воздуха может стать разрабатываемая в настоящее время и пересмотренная новая редакция Экологического кодекса РК.

Ключевые слова: атмосферный воздух, правовая охрана, экологическое законодательство Республики Казахстан, окружающая среда, Экологический кодекс Республики Казахстан.

Introduction

In Kazakhstan, the ecologically and legally significant concept of atmospheric air, perhaps, was first established when the republic was part of the former USSR, namely in the Decree of the Presidium of the Supreme Soviet of the Kazakh SSR “On nature protection in the Kazakh SSR” dated May 12, 1962 (Journal of the Supreme Soviet and the Government of the Kazakh SSR, 1962). According to Article 1 of this normative act, atmospheric air was enshrined not only as an inseparable part of the natural complex as a whole, but also as an independent object of legal protection (Journal of the Supreme Council and the Government of the Kazakh SSR, 1962), thereby “freed” from the traditional and obvious sanitary-hygienic approach, which prevailed for a long time in the official legal policy of the Soviet state.

Two decades later, on June 12, 1981, the Supreme Soviet of the Kazakh SSR at its third session of the tenth convocation adopts a separate Law of the Kazakh SSR “On the protection of atmospheric air” (Bulletin of the Supreme Soviet of the Kazakh SSR, 1981: 482). In accordance with the norms provided for in it, the tasks of the legislation of the Kazakh SSR on the protection of atmospheric air were (Bulletin of the Supreme Soviet of the Kazakh SSR, 1981: 482): improving the state of atmospheric air, preventing and reducing harmful chemical, physical, biological and other effects on the atmosphere causing adverse consequences for the population, the national economy of the republic, flora and fauna, as well as strengthening the rule of law in the field of atmospheric air protection (Article 1) (Bulletin of the Supreme Soviet of the Kazakh SSR, 1981: 482). Russian scientists note that, in fact, the law was a classic example of tex-

tual reproduction of union norms in a republican act (Mukhitdinov N.B., Rakhimberdin K.Kh., Zhumaksanov E.K., 2003a: 45) and in it, in essence, neither one norm that would take into account the specifics of our country (Mukhitdinov N.B., Rakhimberdin K.Kh., Zhumaksanov E.K., 2003b: 45). One of the additional explanations for this circumstance was the fact that it was no coincidence that Kazakhstan for a long time remained a raw material appendage of the former Soviet Union (Mukhitdinov N.B., Rakhimberdin K.Kh., Zhumaksanov E.K., 2003c: 45). Exactly ten years later – June 18, 1991 – the supreme legislative body of the Kazakh SSR adopts a new Law of the Kazakh Soviet Socialist Republic “On environmental protection in the Kazakh SSR” (Z9113500_) (Law of the Kazakh Soviet Socialist Republic “On environmental protection in the Kazakh SSR”, 1991). In connection with its entry into force on August 1, 1991, the previously noted Decree of the highest collegial body of the Republic became invalid. The law within the framework of article 5 recognized atmospheric air and other natural objects as components of natural ecological systems and the biosphere as objects of the natural environment subject to protection (Law of the Kazakh Soviet Socialist Republic “On environmental protection in the Kazakh SSR”, 1991). A separate section within the framework of the Law was devoted to the economic mechanism of environmental protection and environmental management (the Law of the Kazakh Soviet Socialist Republic “On environmental protection in the Kazakh SSR”, 1991) and within Articles 16, 17, 18, 19, 21, 22, 23, 24, 26 and 27 provided for the financing of environmental programs and activities, in particular at the expense of environmental insurance funds and credit banks, payment of fees for special use of natural resources, the conclusion of agreements on environmental management, a payment system in the same area, for example, payment for environmental pollution, payment for emissions and discharges of pollutants into the environment and disposal of production and consumption waste, as well as their standards, etc. (Law of the Kazakh Soviet Socialist Republic “On environmental protection in the Kazakh SSR”, 1991). It can be said that this Law contained not only a new ideology under the conditions of the Soviet administrative-command system, but also significantly stimulated the improvement of environmental protection activities. For comparison, experts note that the Law of the Kazakh SSR “On the Protection of Atmospheric Air” did not provide for economic mechanisms for the protection of atmospheric air” (Rakhimberdin K., 2001).

After gaining state independence, Kazakhstan began to form its own environmental policy – a policy of the transitional period, focused, in particular, on the further development of economic methods for regulating environmental management, expanding the rights and powers of regional and local government bodies (Rakhimberdin K.Kh., 2000: 33). Of course, the Constitution of the Republic of Kazakhstan of August 30, 1995 became the fundamental law in the context of completely different realities. “Its articles 31 and 38 have an ecological and legal character, which for the first time approved and put into effect a new ecological, nature conservation concept” (Chumachenko T.N., 2015). So, if, according to Article 31 of the Constitution: “The state aims to protect the environment favorable for human life and health” (Constitution of the Republic of Kazakhstan, 1995), then in Article 38 it secures the citizens of the Republic the obligation to preserve nature and take care of natural resources (Constitution of the Republic of Kazakhstan, 1995). Article 6 of the Basic Law of the State establishes property rights to natural resources (Constitution of the Republic of Kazakhstan, 1995). In other words, along with the definition of the ecological significance of the environmental policy, in addition, this article contains a legal structure for the protection of individual natural objects, which is based on the institution of property rights. In this regard, clause 3 of this article of the Constitution states that: “The earth and its subsoil, waters, flora and fauna, and other natural resources are in state ownership” (Constitution of the Republic of Kazakhstan, 1995). However, within the limits of this norm, the phenomenon we are investigating is not specifically covered – atmospheric air and the question is not unambiguously resolved: can it also be an object of property rights? It follows that the Constitution of the Republic leaves open the definition of the list of natural resources subject to ownership, use or disposal and without naming their legal characteristics, and also, apparently, given that atmospheric air has its natural properties, believes that it is not possible to classify it as object of ownership.

Theoretical and methodological basis of the article

From a theoretical point of view, the significance of this article lies in the fact that, based on the study of a wide range of scientific views, domestic legislative acts and the results of law enforcement practice, the modern content of the legal protection of atmospheric air is revealed, and the main prob-

lems and further prospects are determined in the context of the analysis of the environmental legislation of the Republic of Kazakhstan. In the study of the topic, in particular, the latest doctrinal developments of scientists representing various legal, environmental, economic schools, such as Mukhitdinov, N., Rakhimberdin, K.Kh., Zhumaksanov, E.K and many others, were used. To achieve the set goal of the article and the tasks arising from it, the authors applied the following methods: synthesis, analogy, structural, comparative, formal-logical methods, as well as methods of modeling and system analysis.

Results and discussion

Among the documents that deserve attention, one cannot fail to note the Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, approved in accordance with the Decree of the President of the Republic of Kazakhstan dated December 3, 2003 (No. 1241) (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003). This is the second act similar to the one that was in force in the Republic in the period 1996-2003. In the latter case, we are talking about the Concept of environmental safety of the Republic of Kazakhstan, approved by the Order of the President of the Republic of Kazakhstan dated April 30, 1996 (No. 2967) (On the concepts of public and environmental safety of the Republic of Kazakhstan, 1996).

The concept is a meaningful political, information-analytical and legally significant document, in which the state, problems and prospects of environmental protection activities in the Republic of Kazakhstan were summarized, updated and determined (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003).

First, taking into account the need to ensure an optimal level of environmental safety with the achievement of regulatory indicators of the state of the environment, it provided for the consistent implementation of its own provisions, dividing it into three stages (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003):

the first stage (2004-2007) – reducing the level of environmental pollution and developing an action plan to stabilize it (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003);

the second stage (2008-2010) – stabilization of environmental quality indicators and improvement of environmental requirements for nature management and (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003)

the third stage (2011-2015) – improving the quality of the environment and achieving a favorable level of environmentally sustainable development of society (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003).

Secondly, the Concept clearly outlined the goals, objectives and basic principles of ensuring the ecological safety of the Republic, among which it is important to highlight such as the achievement of the protection of natural systems and a vital component of the interests of society, the ecosystem approach to the regulation of all social relations for the sustainable development of the state, the obligation compensation for damage to the environment and human health (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003).

Thirdly, based on the specifics of the new realities, the Concept for the first time fixed and prioritized global, national and local environmental problems (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003), at the same time combining them into a single set of environmental problems safety of the Republic (Concept of ecological safety of the Republic of Kazakhstan for 2004-2015, 2003). Independent subsection 3.3.1. in particular, it was provided for the *air pool*. Within its framework, the 10 most polluted cities of the Republic were officially recognized and named, the reasons for the high level of pollution were established, for example, in Almaty, Ust-Kamenogorsk, Shymkent due to outdated production technologies, inefficiency of treatment facilities, poor use of renewable and unconventional energy sources and low quality of the fuel used (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003).

Fourthly, in the Concept, such basic concepts as the greening of the economy, legislation and society were fixed and, perhaps for the first time, were introduced into legal and scientific turnover, and in accordance with them, the main directions and key mechanisms for ensuring the environmental safety of Kazakhstan were determined (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003): improving the economic mechanisms of environmental management and the system of state control in this area, as well as environmental monitoring, optimization of the permitting system and environmental expertise, development of a systemic basis for environmental statistics, etc. (Concept of ecological safety of the Republic of Kazakhstan for 2004-2015, 2003). It was especially emphasized that Kazakhstan has developed environmental legislation, but at the same time, within the frame-

work of its further improvement, it is necessary to rely on international standards: to introduce environmental standards into all other legislative acts of the Republic, to provide for and ensure the use of compulsory environmental insurance and environmental audit (Concept of environmental safety of the Republic of Kazakhstan for 2004-2015, 2003).

In order to significantly reduce the impact on the environment in the Republic during the first and second half of the 2000s, other documents are also adopted. So, in accordance with the Concept of the transition of the Republic of Kazakhstan to sustainable development for 2007-2024, by the Resolution of the Government of the Republic of Kazakhstan dated September 27, 2007 (No. 848), Target indicators of the transition to sustainable development were approved, including 16 environmental indicators (On the approval of target indicators transition to sustainable development, 2007). Another Resolution of the supreme executive body of the Republic of Kazakhstan dated March 12, 2008 No. 245 approved the List of the best available technologies (On approval of the list of the best available technologies, 2008). According to the Decree of the President of the Republic of Kazakhstan dated May 30, 2013 (No. 577), the Concept for the transition of the Republic of Kazakhstan to a green economy (On the Concept for the transition of the Republic of Kazakhstan to a "green economy", 2013) entered the stage of implementation, and in accordance with it, approved by the Resolution of the Government of the Republic of Kazakhstan of July 31, 2013 (No. 750) Action Plan for the transition of the Republic of Kazakhstan to a green economy for 2014-2020 (On approval of the Action Plan for the implementation of the Concept for the transition of the Republic of Kazakhstan to a "green economy" for 2013-2020, 2013). The norms of the Law of the Republic of Kazakhstan "On National Security of the Republic of Kazakhstan" in the new edition of January 6, 2012 No. 527-IV in the aspect of ensuring the environmental safety of the state, society, individuals and citizens are adapted to the current provisions of the fundamental acts and, if necessary, can be supplemented by other legislative acts of the Republic of Kazakhstan and detailed by the documents of the State Planning System of the Republic of Kazakhstan (Law of the Republic of Kazakhstan "On National Security of the Republic of Kazakhstan", 2012).

It is important to note that, however, for the first time not so much legal as economic and social foundations of atmospheric air protection and, in general, its legal status in the Republic was regulated

by a special regulatory legal act – the Law of the Republic of Kazakhstan dated March 11, 2002 (No. 302) "On protection atmospheric air", which with the adoption of the Environmental Code of the Republic of Kazakhstan became invalid (Law of the Republic of Kazakhstan "On the protection of atmospheric air", 2002).

In terms of structure, the Law consisted of 7 chapters and 30 articles and contained basic concepts, including, in particular, such as "harmful physical impact on the atmospheric air", "maximum permissible standard", "maximum permissible level", "pollution", "protection", "Monitoring", and "quality" of atmospheric air (Law of the Republic of Kazakhstan "On the protection of atmospheric air", 2002); determined the principles of public administration, the competence of the relevant authorities and the organization of activities for the protection of the regulated object (Law of the Republic of Kazakhstan "On the protection of atmospheric air", 2002); established requirements for the types and forms of activity that have a harmful effect on its condition (Law of the Republic of Kazakhstan "On the protection of atmospheric air", 2002); fixed the mechanisms for reducing pollutants, their accounting and inventory, control measures and responsibility for violation of the legislation of the Republic of Kazakhstan in the field of atmospheric air protection (Law of the Republic of Kazakhstan "On the protection of atmospheric air", 2002). It can be said that the considered Law as a whole provided for all particular goals and objectives, as well as legal norms necessary to regulate the protection of atmospheric air. According to paragraph 1 of Article 1 of the Law, atmospheric air, as well as in the case of the corresponding laws of the former Soviet republics, was defined as a component of the environment, which is a natural mixture of atmospheric gases (Law of the Republic of Kazakhstan "On the Protection of Atmospheric Air", 2002). Earlier, the same analogous concept, maintaining the connection of the object under consideration with the natural environment, was enshrined in article 1 of the Law "On the protection of atmospheric air" of October 16, 1992, Ukraine (Law of Ukraine "On the protection of atmospheric air", 1992), later the Republic of Belarus in paragraph 1 of article 1 of the same separate law of December 16, 2008 (Law of the Republic of Belarus "On the protection of atmospheric air", 2008), Turkmenistan in article 1 of the special law of March 26, 2016 (Law of Turkmenistan "On the protection of atmospheric air", 2016). At the same time, some post-Soviet states followed the provisions of the Model Law "On the Protec-

tion of Atmospheric Air” developed by the Interparliamentary Assembly of the CIS Member States on December 8, 1998 (Model Law “On the Protection of Atmospheric Air”, 1998). For example, in accordance with Article 1 of the Federal Law of the Russian Federation “On the Protection of Atmospheric Air” dated May 4, 1999, atmospheric air is “a vital component of the environment, which is a natural mixture of atmospheric gases located outside residential, industrial and other premises” (Federal Law of the Russian Federation “On the Protection of Atmospheric Air”, 1999). The concept of atmospheric air in a special Law of the Republic of Moldova of December 17, 1997 (Law of the Republic of Moldova “On the Protection of Atmospheric Air”, 1997) is quite similar in form, but significantly different and complex in content. In Article 3, the Law of this CIS member state departed from an extremely clear and identical legal understanding of the phenomenon under consideration, limiting or expanding its name “air” (Law of the Republic of Moldova “On the Protection of Atmospheric Air”, 1997) – it is “a unique mixture of gases (nitrogen and oxygen, small amounts of argon, neon, helium, krypton, xenon, radon, carbon dioxide, hydrogen, water vapor and various particles) of the highest vital importance in which living organisms can live, the most volatile component of the environment that knows no boundaries, as a result, it is capable of spreading traces of human activity over unpredictable distances in the process of massive movement” (Law of the Republic of Moldova “On the Protection of Atmospheric Air”, 1997).

Despite the existing difference, we can definitely say that the Law of the Republic of Kazakhstan “On the Protection of Atmospheric Air” had something in common in understanding the meaning of this reality with the laws of the post-Soviet states, since it not only clearly emphasized its physico-chemical characteristics, but also indicated that it has no boundaries due to its natural state of constant mobility and mixing and is an integral part of the environment. The economic mechanism for the protection of atmospheric air, judging by Art. 22,23,24,26 and 28 of the Law was limited to payment for its pollution (the Law of the Republic of Kazakhstan “On National Security of the Republic of Kazakhstan”, 2012), but at the same time, the actual procedure for implementing such a procedure was not regulated in it. According to other norms of the Law, atmospheric air was also not isolated in any form of ownership. This, according to E. Novikova, meant that he is not such due to the impossibility of his individualization and,

therefore, property rights cannot be established on him (Novikova E., 1999).

On January 9, 2007, a new codified normative act was adopted in the Republic, containing systematized norms of environmental law and other related industries, namely the Environmental Code (Environmental Code of the Republic of Kazakhstan, 2007). As experts note, “it has become the main comprehensive legislative act regulating public relations in the environmental sphere, incorporating all the positive changes introduced into environmental legislation” (Dzhangabulova A.K., Salykhbaeva A.T., 2014). In accordance with Article 325, the Environmental Code of the Republic of Kazakhstan applies to legal relations arising after its entry into force (Environmental Code of the Republic of Kazakhstan, 2007).

Depending on the objectives of protection, atmospheric air in accordance with clause 1) of article 7 of the Code is an object of environmental protection (Environmental Code of the Republic of Kazakhstan, 2007): as well as land, subsoil, surface and underground waters, forests and other vegetation, fauna, gene pool living organisms, natural ecological systems, climate and ozone layer of the Earth, it is subject to protection from destruction, degradation, damage, pollution and other harmful effects (Environmental Code of the Republic of Kazakhstan, 2007). It is important in this regard to emphasize that with the exception of individual components, this definition, as well as, however, with such a characteristic, the very definition of “environment” was reproduced in the Code from the relevant norms of the Law of the Republic of Kazakhstan “On Environmental Protection” dated July 15, 1997, which also, in accordance with the adoption of the Environmental Code of the Republic of Kazakhstan, it terminated its legal effect (Law of the Republic of Kazakhstan “On Environmental Protection”, 1997). Note that in Article 1 of the Law of the Republic of Kazakhstan “On Environmental Protection” the last concept is explained as a set of natural objects, including atmospheric air (Law of the Republic of Kazakhstan “On Environmental Protection”, 1997), while the Environmental Code of the Republic of Kazakhstan in subparagraph 41) of Art. 1 adds to them such a new element as artificial objects (Environmental Code of the Republic of Kazakhstan, 2007), without specifying their types and content. In this regard, we believe that these include all artificial reservoirs, islands, dams and other geographical objects created as a result of human activity, as well as special buildings, structures, etc.

Continuing to analyze the text of the Environmental Code of the Republic of Kazakhstan, attention should be paid to the mention of atmospheric air within the framework of Chapter 16, Section 5 of the regulatory legal act dedicated to environmental monitoring (Art. Art. 137-146) (Environmental Code of the Republic of Kazakhstan, 2007). The Code in clause 1), Article 137 introduces the aggregate concept of “state environmental monitoring (monitoring of the environment and natural resources)” (Environmental Code of the Republic of Kazakhstan, 2007), meaning by it a comprehensive system of monitoring the state of the environment, natural resources, including using data from remote sensing of the Earth from space, in order to assess, predict and control changes in their state under the influence of natural and anthropogenic factors (Environmental Code of the Republic of Kazakhstan, 2007). One of the objects of such a multipurpose and multifunctional system, along with the repeatedly listed natural resources, as well as with the factors of environmental impact on human health in accordance with paragraph 2) of the considered article of the Code is atmospheric air (Environmental Code of the Republic of Kazakhstan, 2007).

Within the limits of Articles 137, 138, 139 and 140, the Code establishes the procedure, content and mechanism of functioning of the Unified State System for Monitoring the Environment and Natural Resources and, in particular, establishes its subsystems (Ecological Code of the Republic of Kazakhstan, 2007).

With the exception of the norms directly stipulated in the Environmental Code, the regulation of the legal status of atmospheric air “dissolves” in a large array of provisions of the first backbone normative legal act in the Republic. It can be said that various aspects of the legal regulation of the mode of existence of this natural object are “absorbed” by all 9 sections and 47 chapters of the Code (Environmental Code of the Republic of Kazakhstan, 2007), in particular within the framework of natural resource use, emissions and removals of greenhouse gases, the functioning of the order of emergency

situations and environmental disaster, international cooperation in the field of the environment, environmental expertise and environmental control, economic mechanisms to stimulate environmental protection and management of emissions into the environment, etc. (Environmental Code of the Republic of Kazakhstan, 2007). But at the same time, there are no norms that independently release atmospheric air into the most significant and necessary natural object, into the most determining natural factor of the environment.

In the updated edition with changes as of January 7, 2020 (Environmental Code of the Republic of Kazakhstan, 2007), depending on the nature of the coverage of regulated relations, it is a normative legal act of inter-sectoral codification, since it contains not only the norms of environmental law itself, but also related industries. With regard to the protection of atmospheric air, it contains only general and individual regulations.

Conclusion

This means that the norms of the Environmental Code of the Republic of Kazakhstan in relation to the protection of atmospheric air require further development and detailing.

The special law on the protection of atmospheric air, which is also aimed at ensuring the environmental safety of the state, the realization of the rights of citizens to a favorable environment and reliable information about its state, in contrast to other narrow-branch laws, has ceased to be in force, and its norms specifying the special position of the regulated object in question were not substantively integrated into the content of the Environmental Code of the Republic of Kazakhstan.

We believe that one of the ways to possible eliminate these gaps and, accordingly, create, along with other natural objects, a balanced system of norms on the protection of atmospheric air can be the currently being developed and revised new edition of the Environmental Code of the Republic of Kazakhstan.

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