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Legal protection of the Arctic zone of the Russian Federation: ensuring national security

Intensification of the use of territories and water areas forming the Arctic zone of the Russian Federation requires the development and implementation of a complex, multilevel system of measures: from organizational, financial, economic to environmental, including in each case, proper legal support. This system is subject to constant and increasing influence from various factors, including objective climate changes, international cooperation, real and potential conflicts, technologies, etc. and the subjective readiness of society, the state, individual social groups to implement such measures, the ability to seek compromises, the interest in the development of the Russian Arctic region and in protecting the vulnerable environment, the environmental rights of present and future generations.

After the adoption of a number of the decrees of the President of the Russian Federation: "The Principles of State Policy in the Arctic for the Period to 2020 and the Further Perspective" (dated September 18, 2008), "On the Land Regions of the Arctic Zone of the Russian Federation" (from 02 May 2014 No. 296), "The Strategy for the Development of the Russian Federation Arctic Zone and ensuring national security until 2020" (from February 8, 2018), as well as the Government of the Russian Federation on the state program "Socio-economic development of the Arctic zone of the Russian Federation for the period until 2020" 9 of April 21, 2014 No. 300 and other documents of the strategic character the attention of lawyers to the problem of legal protection of Arctic has increased dramatically. Although many issues remain unresolved, controversial, individual decisions and assessments can now be considered justified and subject to use. The collection of the Materials of the scientific-practical conference and round table "Arctic-Territory of Sustainable Development and Cooperation" (October 20, 2017) and the round table of the Territory of Sustainable Development and Cooperation (November 15, 2016) published by the Institute of the State and Law of the Russian Academy of Sciences gives a clear idea of the situation and positions of leading scientists in the field of international, environmental, energy, information and other branches of Russian law.

In the preface to this edition, the editor-in-chief A.N. Savenkov highlighted the achievements of the Academy of Sciences in the study of the Arctic, the history of its development, the direction of Russia's international cooperation, the state of national legislation and the prospects for its improvement (p.11-20). In 22 articles of the Collection, international and environmental legal aspects are most observed; other areas of legal regulation have so far attracted less attention, although such important theoretical aspects as the subject of polar (Arctic) law (S.A. Bogolyubov), analysis of the idea of creating the Polar Code (V.A. Mednikov), regulation of navigation in the water area of the Northern Sea ways (V.I. Avkhadeev, I.E. Krotov), the role of legal sociology in the analysis and development of legal incentives for the development of the Arctic zone of Russia (S.N. Pershutkin), etc.



International law and ensuring national security of Russia

In their article "The Arctic shelf of Russia: the choice of the international legal position" (p.38-57) A.N. Vylegzhanin and I.P. Dudykina do not set a number of important and often controversial issues, but many of them are formulated the answers. Thus, with regard to the legal status of the Arctic Ocean as a "region of the common heritage of mankind", taking into account its uniqueness and the special regional status of the Arctic states, the authors emphasize, so far there is no legally expressed will of these states. They stress that the narrowed base of Russia's rights to the Arctic continental shelf was erroneously issued as the only possible one, and provides convincing arguments in support of its position. A.N. Vylegzhanin and I.P. Dudykina also reasonably criticized the position of the Ministry of Natural Resources of Russia regarding the delineation of the continental shelf only on the basis of Art. 76 of the 1982 Convention on the Law of the Sea. They analyze the concept of the extended continental shelf, the practical issues of delimitation between neighboring states within the 200-mile zone and beyond, the role of jurisprudence in the delimitation dispute, in particular the decision of the International Tribunal for the Law of the Sea, and make proposals for the modernization of the International Law Position Russia with respect to its Arctic shelf: a.) The inadmissibility of Russia's self-restraint, if other states do not exercise such self-restraint. b) the inexpediency of global internationalization of the Arctic Ocean, i.e. the inexpediency of creating in the Arctic region a "common heritage of mankind"; the specification of the outer limits of the Arctic shelf of Russia, not limited by Article 76 of the Convention on the Law of the Sea.

The concept of the Arctic state, its status, the rights of the States parties to the 1982 Convention and the United States, as well as the prospects for international legal regulation and cooperation of the Arctic states, have been analyzed by G.G. Shinkaretskoi (p.57-70, 221-226). E.R. Lyapina develops this subject in her article, in which she explored he prospects for cooperation between the Russian Federation and the European Union in the development of hydrocarbon resources (p.137-145), this topic was also discussed in the article "Legal Regulation of Arctic States Cooperation on Search and Rescue at Sea" (p.206-210) by O.V. Kopylova. A review of mandatory requirements established in international treaties for vessels navigating in polar waters is presented by O.V. Konstantinova and E.M.Mokhova (p.195-205). Of particular interest are the proposals put forward by AA. Moiseev concerning the international legal position of Russia on the issue of Arctic security (p.239-244), analyzing the interests of the Arctic and other states, potential conflicts, in particular with NATO. He upholds the principled Russian position that there are no problems in the Arctic that require a military solution, that the Arctic is a potential source of instability, which requires the presence of military and political blocs here.

Environmental aspects

The most extensive is the block of materials devoted to problems of environmental protection and regulation of the use of natural resources in the Arctic zone of the Russian Federation. They reflect general problems, including the status of the Arctic law, and the tasks of protecting individual resources or objects (e.g. biodiversity), and ways of protecting environmental rights of indigenous peoples leading a traditional way of life.



Thus, M.M. Brinchuk justifies the need for a special legal regime and nature conservation in the Arctic (p. 21-31). Two articles are devoted to the analysis of the discussion on the allocation of the special branch of the law – Arctic (Polar) law and, accordingly, the creation of acts regulating all legal relationships in this field (S.A.Bogolyubov, A.V.Mednikov). Various aspects of biodiversity protection in the Arctic zone of the Russian Federation are considered in the following articles: NS .Kudelkin on the legal protection of the marine environment (p.98-102), N.I.Chludeneva on the importance of the Convention on Biological Diversity and other acts for the creation of specially protected areas, conservation of Arctic species of animals, plants and fungi (102-107), T.B.Rednikova on the connection of the general strategy for the development of the Arctic zone with the obligations to preserve biodiversity (p.191-205), M.A. Ryazanova on the management of fisheries in the central part of the Arctic Ocean (p. 251-253).

Four articles are devoted to various problems arising during the development of the Arctic, which affecting the rights and interests of indigenous peoples. For example, their right of land use (V.V.Ustyukova), the order and peculiarities of establishing territories for traditional nature management (G.A.Zemlyaklva), their place and role in the process of sustainable development of the Arctic (D.D. Baramidze), local identity and legal measures to support it (M.Y.Zadorin).

The collection contains such materials relating to the development of entrepreneurship in this region of Russia, navigation, restoration of disturbed territories, the establishment of Arctic cities, the implementation of industrial projects, compensation for environmental damage.

In general, both the conferences held and published collection show that: firstly, the legal problems of protecting the Arctic region of Russia are diverse, complex and require immediate resolution; secondly, an integrated approach must be ensured here; thirdly, it is necessary to continue and develop scientific research in the field of Arctic (Polar) law, both on international and national levels; fourthly, Russian lawyers are making efforts to ensure proper legal protection of the environment in the Arctic, protection of national sovereignty and interests of the Russian state, development of measures for the legal regulation of the security of the population, territories and water areas of the Arctic zone of the Russian Federation.

Translation by T. Rednikova