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¹Tapalova R.B., ^{2*}Repetskaya A.L., ¹Shopabayev B.A., ¹Satybaldinov D.D.¹Al-Farabi Kazakh National University, Almaty, Kazakhstan²Irkutsk law institute (branch office) of FGBOU VPO

“Russian MU legal academy of the Russian Federation”, Irkutsk, Russia

*E-mail: repetsk@mail.ru

Class of judicial environmental assessments: concept, system

Abstract. In this project the judicial expertise appointed at investigation of offenses in the sphere of ecology. Those expertise which are ranked as ecological are allocated. In criminalist literature of environmental assessments has different views on classification. Differences of judicial environmental assessments from other expertise are shown. Authors offer the own system of environmental assessments. The kind, types of expertise which enter a class of environmental assessments are noted. The short characteristic of objects of each class of judicial environmental assessments is given.

Key words: ecological offenses, proof, judicial environmental assessments, class, kind, specialists, experts.

Determination of an ecological offense conditions is not possible without involvement of specialists to investigative actions and destination of judicial expertise. Depending on a type of an offense, poaching or environmental pollution, etc., and also from specific circumstances of incident, are appointed various expertise – trasological, ballistic, expertise of materials, substances, biological, technological, calligraphic and etc. For example, at investigation of illegal hunting conducting ballistic expertise, at mass death of fishes in pond are appointed expertise of materials, substances and water foreexistence of toxic substances, and also ichthyologist expertise and etc. are appointed.

Practice of the affairs connected with ecological offenses shows existence in materials of ten and even more conducted expert researches and a wide range of these examinations by types. Among the examinations appointed in practice on cases of ecological offenses, there are examinations resolving the issues which are directly connected with ecology. Scientific literature calls their ecological. The judicial environmental assessments which are carried out in practice have specifics, practically in all cases they are complex, it is that the solution of the tasks set on permission of such examination requires involvement of experts of various profiles –

chemists, biologists, ichthyologists, ornithologists, veterinarians, zoologists, agronomists, etc. It is a complex of different types on objects of examinations, but unites all of them not only objects of the nature, human environment, but also the tasks connected with establishment of the fact of infliction of harm to the nature.

In our opinion, absolutely fairly Shlyakhov A. R. allocates them as an independent class. The basis for allocation as class of examinations, set of components – objects of a research, a task, research methodology lies. Further, division into childbirth, types of examinations is connected with specification of objects of the surrounding person of a material world on their properties. According to Shlyakhov A. R., the class of environmental assessments consists of the following childbirth:

- judicial examination of the environment surrounding the person;
- judicial examination of a biocenosis of flora;
- judicial examination of a biocenosis of fauna;
- judicial examination of efficiency of protection of representatives of an animal and flora from destruction by the person and impacts of its production activity (poaching, the deforestation leading to destruction of animals, drainage of reservoirs, etc.);

–judicial examination of efficiency of protection of natural resources: soils, minerals, waters, air environment [1, 2, page 8].

Other point of view is created much later in the 90th years. Rossinskaya E. R. in the monograph devoted to a concept of judicial examination considered necessary to allocate a class of judicial environmental assessment which includes the following childbirth:

–judicial examination of an ecological condition of soil and geological objects;

–judicial examination of an ecological condition of biogeocenoses;

–judicial examination of a radiation situation;

–judicial examination of an ecological condition of water objects;

–judicial examination of an ecological condition of atmospheric air;

–judicial examination of impact of economic entity on the environment, etc. [3, page 346]

Further, Rossinskaya E. R. gives the characteristic to some of the listed childbirth of examinations.

1) A research of an ecological condition of soil and geological objects (judicial environment examination) – a complex of the actions made in the form established by the law by experts in the field of soil science, ecology and interdisciplinary natural sciences which draw the conclusion on the questions connected with a research of negative anthropogenous impact on soil and geological objects. The complex nature of examinations of this sort the soil of examinations allows to refer them also to a class judicial. A subject of judicial environment soil examination – the actual circumstances established on the basis of special natural-science knowledge in the field of land use and protection of soils, and also researches of materials of affairs on the facts of negative anthropogenous impact on soil and geological objects.

2) A research of an ecological condition of biocenoses – a complex of the actions made in the form established by the law by experts in the field of biology and ecology which draw the conclusion on the questions connected with a research of negative anthropogenous impact on biocenoses. A subject of this judicial examination – the actual circumstances established on the basis of special natural-science knowledge in the field of forest exploitation and protection of vegetable objects, and also researches of materials of affairs on the facts of negative anthropogenous impact on biocenoses.

3) Judicial environmental assessment of a radiation situation is a complex of the actions made

in the form established by the law by experts in the field of radio ecology who draw the conclusion on the questions connected with negative impact of radiation on the environment. Its subject are the actual data established on the basis of special natural-science knowledge in the field of radio ecology, and also researches of materials of affairs on the facts of negative radiative effects.

As Rossinskaya E. R. claims., the new formed class of examinations is carried out in the Russian Federal Center of judicial examination of the Ministry of Justice of the Russian Federation and in non-state expert institutions. Rossinskaya E. R. notes also that a large number of ecological researches is made out of communication with problems of legal proceedings. For example, residents of the house in which there was an emergency station with the working x-ray installation that is forbidden by Sanitary standards and rules addressed to non-state judicial and expert institution. Residents were sure that maximum permissible doses of x-ray radiation are strongly exceeded, and asked to make radiation control and to draw the conclusion about an ecological situation in the house. Earlier in court did not adopt the action for declaration as employees point trauma allegedly already made measurements of background radiation, and everything was as it should be.

However residents considered check biased. The expert-ecologist carried out dosimetry and found considerable excess of maximum permissible norm of x-ray radiation in the majority of rooms, and to some rooms the administration of the expert did not allow, being afraid, probably, still of great values. Results of examination allowed residents to prove the requirements about closing of a x-ray office, and the ecological situation in the house was normalized. Unfortunately, in Kazakhstan of such precedents not to find.

It should be noted that not all scientists allocate environmental assessments as an independent class. For example, Zhgenti O. V., consider environmental assessment as subspecies in the class “Agricultural Examinations”, Shakirov K. N. includes environmental assessments in the class “Judicial and Biological and Agricultural Examinations” [4, page 15-16; 5, page 25].

In the Instruction for production of judicial examinations and specialized researches in the Center of judicial examination of the Ministry of Justice of the Republic of Kazakhstan approved by the order of the Minister of Justice of Republic of Kazakhstan of May 24, 2011 No. 193 in classification there are no judicial environmental

assessments [6]. But in practice they are carried out. According to reports for the last 14 years at Institute of judicial examination around the city Almaty carried out about 400 expertizes appointed on cases of ecological offenses, the questions connected with infliction of harm to the environment [7] are raised. Sufficient experience of the solution of the expert tasks directed to establishment of circumstances of an ecological offense is accumulated, moreover experts developed the techniques included in the State register [8]. Formation of a class of judicial environmental assessments does not differ from a historical way of formation of other examinations and so far, having theoretical and practical bases, for example, as it happened to handwriting examination or trassological, ballistic and other examinations.

The class of judicial environmental assessments consists of a large number of types of examinations as we see from Shlyakhov A. R. classifications., Rossinskoy E. R. Despite distinctions in the given classifications, but unites them that scientists lean on the general object, the main is human environment, the inorganic and organic world in all its variety.

The subject, objects, tasks and methods – all this set of concepts disclose essence of judicial environmental assessment and the individual characteristic of each sort and type of the examinations entering this class.

Objects of ecology are various: live organisms, person, animals, plants, etc., inorganic world, earth, minerals, etc. Any of them can be involved in the sphere of procedural legal relationship.

The subject of judicial environmental assessment can be the general and private. The general subject allows to characterize in general a class of environmental assessments. A subject of a class of judicial environmental assessment are the facts, circumstances of civil, administrative or criminal case which are subject to establishment by means of special knowledge of one orientation, knowledge in the field of the natural and engineering sciences connected with the environment of the person, more precisely, the nature, making it in total. The private subject of childbirth, types of a class of judicial environmental assessment are regularities of properties of narrower circle of the objects making the nature concerning which it is required permissions of the questions which are in limits of one special competence. The private subject and concrete objects of a research are the cornerstone of classification of examinations in a class. Let's explain in more detail, cognitive, functional, system competences of the expert are within nature objects

– waters, air, the soil, flora, faunae which define a sort of examinations. The look, subspecies of environmental assessments is defined by a variety of properties of each of the listed objects. To allocate examination of a radiation situation as an independent sort, it is inexpedient since water, air, the soil, etc. can be radiation.

Shlyakhov A. R. classifications., Rossinskoy E. R. show, objects of ecology what internal hierarchy has to exist are how difficult. However, from our point of view, it is possible to present differently – to allocate in a class childbirth on the objects making Earth nature, within each sort to allocate types which objects have to be considered not only as having a natural origin, but also are products of human activity, for example, the arable land to which fertilizers are introduced and on which the harvest, reservoirs is grown up where to get divorced fish, a borehole, etc. Further, considering variety of natural components (for example, the vegetable or animal worlds), relying on maternal sciences and science “systematization”, to carry out internal classification, for definition of expert specialization.

Thus, in our opinion, the class of judicial environmental assessments has to include the following childbirth:

- judicial examination of soil objects and minerals;
- judicial examination of water objects;
- judicial examination of atmospheric air;
- judicial examination of flora;
- judicial examination of fauna.

Thus, in the general classification of judicial examinations it is necessary to provide a class of judicial environmental assessments, to bring this class in the Instruction for production of judicial examinations and specialized researches in the Center of judicial examination of the Ministry of Justice of the Republic of Kazakhstan (with the subsequent changes made by the order of the Minister of Justice of Republic of Kazakhstan). Internal systematization of the specified childbirth of a class of judicial environmental assessments depending on degree of complexity, variety of types of objects of natural components is necessary for the register of judicial and expert specialties.

Within each sort differentiation has to be corresponding, considering degree of complexity of their components, according to natural sciences, for example:

1. Judicial examination of soil objects and minerals. Classification of soils is a group of soils according to a certain system of taxonomical units and the principles of classification (a class, type,

a subtype, a sort, etc.) [9]. Taxonomy – system of the coordinated taxonomical c of an edina (taxons) of different level (type, a subtype, a sort, etc.). The classification problem remains to one of the most debatable because of distinctions in the principles which are been the basis for classification of soils of the world. The majority of the countries use national classifications. The first scientific classification of soils in Russia was developed by Dokuchayevy V. V. In Kazakhstan school, uniform with Russia. In each natural zone types of soils were allocated to them (podsolic, black earth, chestnut, etc.). Their genesis (origin) and factors of soil formation are the basis for allocation of types of soils (the main unit of classification). Therefore V. V. Dokuchayev's classification received the name of genetic.

The same principles are the basis for the "Classification of soils of the USSR" made by group of authors which is used when carrying out soil inspections so far. In parallel also other directions of classification which differed with the principles which are been their basis developed: geological and petrographic, profile and genetic, etc. The greatest interest is attracted by the classification of soils of the world developed by the American security service of soils. The substantive and genetic principles are its basis: soils are ranged on the basis of morphological features, structure and properties of the diagnostic horizons taking into account the water and thermal modes, and also chemical and physical properties of the soils important for development of plants. Making the soil organic (for example, protozoa), minerals and so forth cause additional internal classification.

2. Judicial examination of water objects.

Classification of water objects is carried out on the different bases [10]:

I. By origin waters divide on:

- atmospheric (snow, rain);
- underground (soil, artesian, spring, well);
- superficial (oceans, seas, lakes, etc.);

II. In mineralization size. Understand total concentration of anions, cations and soluble inorganic substances [11] in water as a mineralization of water.

III. On primary the content of this or that anion natural waters divide into 3 classes:

- hydrocarbonate waters (generally surface water – waters of the rivers, lakes);
- chloride waters (water of oceans, seas, salty lakes);
- sulphatic waters (some well waters), etc.

3. Judicial examination of atmospheric air.

Pollution of atmospheric air – it is necessary to

understand any change of its structure and properties which makes negative impact on health of the person and animals, a condition of plants and ecosystems [11]. Pollution of the atmosphere can be:

- natural (natural), caused by natural processes (volcanic activity, aeration of rocks, a wind erosion, mass blossoming of plants, smoke from the forest and steppe fires);
- anthropogenous, connected with emission of various pollutants in the course of activity of the person. It considerably surpasses natural pollution of atmospheric air in the scales.

Depending on scales of distribution allocate various types of pollution of the atmosphere:

- local, characterized by the increased content of pollutants in small territories (the city, the industrial district, the agricultural zone, etc.);
- regional, considerable spaces, but not all planet are involved in the sphere of negative impact;
- the global, connected with change conditions of the atmosphere in general, leading to gradual accumulation of climatic and ecological changes of planetary scale.

Classification of pollution of the atmosphere by aggregate state:

Emissions of harmful substances in the atmosphere are classified by aggregate state on: gaseous (sulfur dioxide, nitrogen oxides, carbon oxide, hydrocarbons, etc.); liquid (acids, alkalis, solutions of salts, etc.); firm (cancerogenic substances, lead and its connections, organic and inorganic dust, soot, resinous substances and so forth), etc.

4. Judicial examination of flora. In botany there is a traditional classification of plants: accurate multilevel classification of flora is accepted [12]. It covers a kingdom of plants, mushrooms. It contains 350 thousand types of live organisms, that is actually all plants which are available on our planet. They are distributed on three departments representing the higher germinal vegetable organisms, the real seaweed and red seaweed.

The operating classification of plants is based on a number of signs among which:

- sizes of vegetable organisms;
- a vital form (distinguish herbs, bushes, vegetable and forage crops, trees);
- activity duration (distinguish one – two – and perennial plants);
- way of reproduction;
- requirements to growth conditions.

Vegetable organisms are distributed in addition also on departments. Such classification of plants provides reckoning of ferns, mosses, club

mosses, horsetails to the higher spore-bearing vegetable organisms, and naked and angiospermous (flower) types – to seed plants. It means that the first breed disputes, the second – seeds. Distinguish one from angiospermous – and two-submultiple plants.

5. Judicial examination of fauna. The fauna which classification conforms to requirements of modern science strikes with variety of the existing forms [13]. And today scientists continue to open new types of the living beings living on the planet. The science systematization helps to be guided with that variety of types to which Earth fauna is presented. Classification of animals by certain groups – one of kinds of activity in which it is engaged. Newly opened representatives of fauna have to be described by scientists and are placed in that place of the general system where they have to be according to the signs accepted in the scientific world. The modern system of distribution of fauna to groups is constructed on the basis of definition of degree of their relationship, at the same time the origin, an external and internal structure of organisms, ability to reproduction of posterity is considered. Types of animals are located in the table from the lowest to the highest. It corresponds to the

general direction of evolutionary development of fauna on Earth. A look – the basic concept of classification. When determining a concept of a look in attention the structure of a body of animals, the place of their dwelling, ability to reproduction is accepted. Associations of the individuals having the general properties make animal species.

Classification of separate types, in turn, can be presented by populations. Feature of group of the animals who are a part of this or that population is relative isolation from representatives of the same look. Formation of such groups of animals is connected with the place of their constant dwelling. More than 40000 animal species live in Kazakhstan according to scientists of Institute of zoology, some of them are not described in the table of classification. But the main thing for us is the Red List where animals, infringement of whom from poachers is a criminal ecological offense, are brought, in articles of the Criminal code signs of a criminal ecological offense are given, at illegal hunting, fishings.

Thus, in internal classification of a class of judicial environmental assessments systematization depending on degree of complexity, variety of types of objects of natural components is necessary.

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