

Prospects for the Development of the Environmental Responsibility System: Recommendations and Proposals

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Abstract. *In this scientific article, the author presents environmental expertise as an important legal institution in ensuring environmental protection and sustainable development in Uzbekistan.*

Key words: *environmental expertise, environment, international standard, environmental insurance.*

Introduction: However, there are a number of systemic issues in the current legislation, and the need to find legal solutions for them is growing. The purpose of this article is to scientifically analyze the system of liability for violating environmental assessment requirements, identify shortcomings in national legislation, and develop practical proposals based on international experience. Improving accountability for violations of environmental assessment requirements is an integral part of strengthening the environmental protection system in Uzbekistan, achieving sustainable development, and ensuring the rational use of natural resources. While certain legal foundations currently exist in this area, there is an increasing need for their correct and effective application in practice, enhancing the impact of liability measures, and aligning them with international standards. This article presents recommendations and proposals for developing the environmental liability system, based on foreign experience and national interests.

Methodology:

The following scientific methods were used in the research process:

- Normative-legal analysis - study of the norms of the Law of the Republic of Uzbekistan "On Ecological Expertise," Administrative and Criminal Codes;
- Comparative legal analysis - comparative study of the ecological expertise and liability systems of countries such as the USA, Germany, and Japan;
- Analysis of international legal sources - Aarhus and Espoo Conventions, documents of the UN and European Economic Commission;
- Practical analysis - study of ecological expertise practice in Uzbekistan, public participation, and activities of state institutions.

Results:

As a result of the analysis, the following main problems were identified:

1. The law lacks clear definitions of key concepts such as environmental assessment and environmental impact;
2. The boundaries between administrative and criminal liability are unclear;
3. Insufficient public participation undermines transparency;

4. There are no clear legal mechanisms for assessing and compensating for environmental damage;
5. Short examination periods reduce the quality of assessments.

Discussion:

The experience of foreign countries is crucial for effectively establishing a system of environmental assessment and accountability. For example, in Germany, activities carried out without an environmental assessment conclusion are subject to strict liability, and damages are covered through insurance or a special fund. In the USA, public participation is widely ensured, and NGOs can participate in court proceedings as trusted parties. In Japan, transparency and efficiency have been achieved through digital monitoring and electronic information systems. Adapting these experiences is also an urgent task for Uzbekistan. Specifically, it is advisable to introduce an environmental insurance system, revise fines and penalties in proportion to the damage caused, establish compensation funds, implement an electronic assessment and online monitoring system, and strengthen public participation.

To improve the regulatory framework, it is necessary to introduce the following amendments and additions to the legislation to ensure clear, systematic, and effective accountability for violations of environmental assessment requirements.

Clarification of legal norms: It is necessary to introduce clear, consistent rules in the current Law "On Environmental Expertise" and related regulatory documents regarding forms of liability, types of penalties, the obligation to comply with expert opinions, and cases of their violation. For example, the law already states that "activity without an expert opinion is illegal," but its consequences (who is punished and how) are scattered across various codes. Such rules should be consolidated in one place and made more comprehensible.

Defining the boundary between administrative and criminal liability: It must be clearly determined, based on legal evidence, in which cases administrative liability applies and in which cases criminal liability applies. Currently, the term "significant damage" is being evaluated subjectively. For instance, it is necessary to specify what amount of damage is considered significant. Perhaps, through a relevant Cabinet of Ministers decision or law, this should be clarified: for example, if damage exceeds 100 million soums or more than 10 hectares of land is damaged - it's a criminal case; if less - it's administrative. Of course, this is just an example; specific parameters should be developed based on scientific and statistical data. This would provide clear guidance for law enforcement.

Legal strengthening of compensation mechanisms: Regulatory legal acts that clearly define the criteria for assessing biological, chemical, and physical forms of damage and the procedure for compensation should be updated. For example, if a separate legal document "Methodology for Assessing Environmental Damage" is approved, it will serve as a guideline for forensic examinations. Additionally, it is possible to include articles in the Civil Code detailing "liability for environmental damage" - the current Article 985 is written in general terms, and characteristics of environmental damage should be added as a commentary. In the Criminal Code, it is advisable to clarify the provisions of Articles 198 and 201, for example, by specifying what is meant by "environmental safety rules".

Institutional development of accountability mechanisms: Even if laws are perfect, results cannot be achieved without strong institutions to implement them in practice. Therefore, it is necessary to develop institutional mechanisms that ensure environmental responsibility:

Implementation of an environmental insurance system: As noted above, it is necessary to introduce compulsory environmental insurance to compensate for damage caused by private and state entities. Proposals have even been made several times in the national press. This proposal needs to be formalized - for example, by issuing a resolution "On Environmental Insurance of Hazardous Economic Activity." Insurance not only facilitates compensation for losses, but also encourages business entities themselves to take environmental risks into account in advance - since the amount of insurance payment depends on the level of risk.

Optimization of fines and penalties: The amount of current fines should be proportional to the amount of damage caused. Currently, the fine for some offenses is very low - for example, 5-10 BRV, whereas the damage caused can amount to tens of millions of soums. Therefore, by amending the Administrative Code, fines for environmental offenses can be increased several times. In addition, in cases of criminal liability, it is important to provide for alternative punishments: for example, the introduction of compulsory environmental correctional work (community service) in addition to or instead of imprisonment. When a person who has committed a crime is imprisoned, in most cases, the state cannot recover damages from them. If, instead of imprisonment, he is ordered to work a certain number of hours in restoration work in the damaged area under the supervision of the support inspectorate (or paid money to the compensation fund), this is both a punishment and a benefit.

Formation of Compensation Funds: In cases of environmental damage, it is necessary to create environmental compensation funds at the expense of the state and private sectors to finance work to restore nature, study and eliminate the damage. Today, the Environmental Protection Fund exists, but its extra-budgetary revenues and expenditures are not transparent. On the basis of this fund, a special "Environmental Disaster Fund" or "Environmental Rapid Response Fund" can be created. It primarily collects environmental payments from the export of wheat and petroleum products, or contributions from the aforementioned insurance companies. The competence of this fund includes financing the recovery of damages in exceptional cases (or after court decisions). The idea of such funds was partially put forward in 2023 by presidential decree (Decree No. PP-171, May 31, 2023) - which set the task of creating a fund to solve the waste problem. These initiatives must now be fully realized in practice.

Adaptation of international experience to the conditions of Uzbekistan: Based on the aforementioned foreign experience, it is promising to introduce some of its elements into our national system:

The German experience: Holding any entity accountable for commencing operations without an environmental expert opinion, covering damages through insurance and savings, is a model that has proven itself in Germany. It is advisable to create such a reliable system of financial guarantees in Uzbekistan. For example, for large investment projects, it is possible to introduce an "environmental duty" or "environmental insurance premium," which constitutes a certain percentage of the project cost, goes to the fund, and is used in an emergency.

US experience: It is necessary to amend legislation to strengthen public participation and involve environmental NGOs in the process of expertise and control. In particular, mechanisms should be considered, such as the mandatory review of the results of public environmental expertise, granting NGOs the right to participate in court as a "trust party." For example, if a public expertise gives a negative conclusion on a project, the state expertise can still give a positive conclusion, but in doing so, it is obliged to provide a detailed justification for its decision and take into account public objections. In the USA, NGOs (non-for-profit organizations) can file a lawsuit in the interests of the environment. We can also revise the Aarhus Convention's concept of "interested party in court" and grant such status to environmental NGOs.

Japan's experience: The introduction of Japanese-specific technologies for monitoring, digitalization of electronic information systems and expertise processes into the practice of Uzbekistan is considered promising. In 2023-2024, work has begun on creating an electronic environmental expertise portal under the Ministry of Ecology. It is necessary to intensively continue this work, keeping all appeals, conclusions, and results of the examination in a single database. Furthermore, using drones, it is possible to establish remote monitoring and an online data transmission system from industrial enterprises - this experience exists in South Korea and Japan. As a result, the material and technical capabilities of state control increase, and many problems become visible remotely.

Implementation of digitalization and digital control: Modern information technologies can take environmental control to a new level. Therefore, it is necessary to transfer the processes of environmental expertise to electronic form:

Online expertise and approval: It is necessary to organize the consideration of projects online, to create the possibility of registering expert opinions in a centralized electronic system. This will also

create convenience for entrepreneurs - they will send documents electronically and receive a response electronically. Most importantly, this makes the process transparent, and all actions (who and when saw which document, which decision was made) are tracked electronically. The risk of corruption decreases sharply.

Ensuring the openness of environmental information: As noted above, all expert opinions, their conditions, and information on the circumstances of responsibility should be provided on an open electronic platform. Even certain statistics can be published - how many violations were identified during the year, how many were fined, and how many criminal cases were opened. This information increases environmental responsibility among the population. The media will also have access to an open database, which will strengthen press control.

The above-mentioned proposals and measures are aimed at strengthening responsibility for violation of the requirements of environmental expertise and its effective implementation in practice. These changes have not only legal, but also strategic environmental and economic significance for Uzbekistan. After all, the strong and just implementation of environmental responsibility serves to improve environmental protection, ensure the environmental sustainability of investments, and guarantee the right of citizens to a healthy environment.

International experience shows that in developed countries, environmental control and expertise are firmly established on the basis of legislation. In countries such as the USA, Germany, Japan, Canada, and Sweden, not only government bodies but also the public, independent experts, and NGOs are actively involved in this process. As a result, environmental violations are detected early and serious consequences are prevented. A clear definition of the types of legal liability, the criteria for their application, and the clarity of the boundaries between criminal and administrative penalties are important conditions for an effective environmental control system. In the practice of foreign countries, property, administrative, or criminal liability is applied depending on the extent of damage caused to the environment, and this process is carried out fairly and transparently.

In Uzbekistan, the system of environmental expertise and accountability is also gradually improving, but currently, some generalities in legislation, lack of clarity in mechanisms, and insufficient development of public oversight reduce effectiveness. Therefore, it is necessary to review national legislation based on international practice and adapt best practices. Measures such as the harmonious application of administrative, criminal, and property liability, and the introduction of environmental insurance and compensation mechanisms are urgent tasks. By strengthening international cooperation, ensuring information exchange and public participation, it is possible to reduce violations in the environmental expertise process. The widespread implementation of information technologies ensures the speed and transparency of expert processes, facilitating the prompt detection of any violations and the adoption of effective measures.

The main tasks for Uzbekistan in the future are to bring the regulatory framework to the level of international standards, introduce mechanisms for environmental insurance and damage compensation, clearly define the types of liability and strictly apply them in practice, and develop an electronic environmental expertise system. Indeed, in international practice, legal liability for violating environmental expertise requirements is quite well-established - the forms of administrative, criminal, and property liability are clearly defined and serve as effective tools for environmental protection. The experience of the USA, Germany, Japan, and other developed countries shows that violating environmental expertise requirements leads not only to legal but also to economic and social consequences. Therefore, strict and systematic response measures should be established for such offenses.

It should be noted that although legal norms in the field of environmental expertise exist in Uzbekistan, improving the mechanism for their practical application, increasing the effectiveness of penalties, defining the boundaries between types of liability, and developing the environmental insurance system are of paramount importance. The insufficient level of public participation in the environmental expertise process, transparency of information, and public-state interaction negatively affects the effectiveness of accountability in this area. Therefore, it is necessary to elevate the fight

against environmental violations to a new level by reforming national legislation based on best international practices and implementing theoretical and practical proposals.

During the study, the norms of the Law "On Environmental Expertise", its practical application, and results were examined in detail. Additionally, environmental expertise systems in countries such as the USA, Japan, Singapore, Turkey, Russia, Georgia, and Belarus were analyzed, and best practices and successful models were identified. Consultations were held with experts from international organizations such as the World Bank, the United Nations, the European Economic Commission, and the Organization for Security and Co-operation in Europe. Furthermore, the requirements of international conventions such as the Aarhus Convention and the Espoo Convention, which emphasize public participation and transboundary environmental assessment, were taken into account. Protocols of strategic environmental assessment served as the basis for developing strategic environmental assessment norms in the new law.

Based on studies and analytical data of the current Law "On Environmental Expertise", several shortcomings have been identified:

- Lack of definitions: The law lacks clear definitions of key concepts such as "environmental expertise" and "environmental impact," which leads to ambiguity and varying interpretations.
- Absence of international standards: The law does not apply internationally recognized standards for environmental assessment, which limits its alignment with global practices.
- Unclear roles and responsibilities: The rights and obligations of participants in the environmental review process are not clearly defined, which leads to uncertainty and conflicts.
- Insufficient public participation: The law does not adequately ensure public involvement in the expertise process, which undermines transparency and accountability.
- Inadequate timeframes: The deadlines for conducting an environmental assessment (up to 20 days) are too short, compromising the quality and depth of the assessment.

For example, the lack of definition of key concepts leads to different interpretations among participants and affects the consistency of assessments. Furthermore, the absence of international standards limits the law's ability to address new environmental challenges and adapt to the requirements of international investors.

Based on these findings, several changes are proposed in the draft Law "On Environmental Expertise and Environmental Impact Assessment," aimed at addressing the identified issues and improving the environmental expertise process:

- Unified automated information system: This system enhances transparency and efficiency by enabling online submission of materials for environmental expertise and access to expert opinions.
- Strategic Environmental Assessment: The implementation of this provision will allow for the assessment of state programs, concepts, and urban planning documents, contributing to the early identification and mitigation of environmental impacts.
- Permanent Expert Council: The establishment of this council ensures impartiality and objectivity in environmental expertise, creating a mechanism for resolving complex and controversial issues.
- Simplified processes for low-impact projects: Exempting such projects from expert review reduces bureaucratic barriers for small businesses while maintaining environmental control for critical projects.
- Extended timeframes: New deadlines for environmental expertise allow for a more comprehensive and adequate assessment of environmental impacts.
- Qualification certificates for project developers: These certificates improve the quality of project documentation and compel developers to comply with environmental standards.

- Strengthening public participation: The law introduces provisions for public environmental expertise and public discussions, ensuring public involvement in decision-making.

The current Law of Uzbekistan "On Environmental Expertise" requires significant improvement to address its shortcomings and align with international practices. The proposed Law "On Environmental Expertise and Environmental Impact Assessment" introduces important changes that will increase the efficiency, transparency, and accountability of environmental expertise processes. The adoption of this law will promote sustainable and environmentally responsible industrial development in Uzbekistan, safeguarding citizens' health and natural resources for future generations.

Conclusion:

Analysis shows that although there is an environmental expertise system in Uzbekistan, its effectiveness has not yet been fully ensured. The main directions of the system should be a clear definition of the types of legal liability, legal consolidation of environmental insurance and compensation mechanisms, ensuring public participation and openness of information. By adapting international experience to national legislation, it is possible to strengthen compliance with environmental expertise requirements and guarantee citizens' right to a healthy environment.

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