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Artículos

Trends and Prospects for the Formation of a National Model of Climate Legislation (Using the Russian Federation as an Example) *

Tendencias y perspectivas de la elaboración de un modelo nacional de legislación climática (ejemplo de la Federación de Rusia)

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Abstract:

The article identifies the main gaps and conflicts of the climate legislation of Russia, examines the ways to solve them and trends in the development of judicial practice to protect the climate rights of citizens. For the first time, the authors developed the category "conditions for the implementation of climate policy", which represents legal instruments and procedures that are not directly climate-oriented, but which can be used to solve the climate problem, facilitating the implementation of the climate rights of citizens and their associations. The structure of the draft law "On Climate Protection in the Russian Federation" is substantiated, its main sections are outlined, the impossibility of including in such a law norms on climate torts is proven, the relationship of the norms of civil, administrative, financial, environmental law, together regulating climate problems, is revealed. The conclusion is substantiated that within the framework of the Russian legal system, a full-scale climate law is more promising than the currently existing framework law, since such an approach allows not only to respond to existing problems and threats, but also to implement the predictive function of law, to predict climate hazards in the future and to lay down a mechanism for their solution today.

Keywords: Climate, Law, Mitigation, Adaptation, Greenhouse Gases.

Resumen:

El artículo identifica las principales lagunas y conflictos de la legislación climática de Rusia, y explora las formas de resolverlos y las tendencias en el desarrollo de la jurisprudencia sobre la protección de los derechos climáticos de los ciudadanos. Los autores han desarrollado por primera vez la categoría de "condiciones para la aplicación de la política climática", que son instrumentos y procedimientos jurídicos que no se centran específicamente en el clima, pero que pueden utilizarse para abordar el problema climático, al promover los derechos climáticos de los ciudadanos y sus asociaciones. Se ha argumentado la estructura del proyecto de ley "sobre la protección del clima en la Federación de Rusia", se han señalado sus secciones principales, se ha demostrado la imposibilidad de incluir en dicha ley las normas sobre delitos climáticos, se ha revelado la relación entre las normas del derecho civil, administrativo, financiero y ambiental, en conjunto, que regulan los problemas climáticos. Se ha llegado a la conclusión de que, en el marco del sistema jurídico ruso, la ley climática de pleno formato es más prospectiva que la ley marco vigente, ya que este enfoque permite no solo responder a los problemas y amenazas existentes, sino también realizar la función predictiva del derecho, predecir los peligros climáticos en el futuro y cerrar el mecanismo para resolverlos hoy.

Palabras clave: clima, derecho, mitigación, adaptación, gases de efecto invernadero.

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Introduction

It is no coincidence that the problems of global climate change are in the focus of attention of legal experts all over the world. The increase in average annual temperatures entails a host of extremely negative consequences, posing a threat to the stable existence of all countries in the world. The increase in the number of climate refugees creates social problems in the countries that host them; the increase in the number of hurricanes, floods and other extreme disasters destroys infrastructure, houses and administrative buildings, posing a threat to the lives and health of people. In relation to Russia, this problem is even more urgent than for many other countries, since the rate of climate change (increase in global temperature) here is two and a half times higher than the world average. [1]

In addition to all other negative consequences, this entails a threat to the state of natural and cultural heritage sites, including the ecosystem of Lake Baikal and the city of St. Petersburg. A separate negative aspect of the climate problem is that even if anthropogenic greenhouse gas emissions are reduced to zero right now, global temperatures in the world will continue to rise for about another hundred years due to the inertia of the global climate system and the self-sustaining melting of Arctic ice and permafrost. [2] Despite the obvious threat to the existence of humanity, there are different points of view in world and Russian science on the reality of the climate threat and the climate policy pursued by the international community (or individual states). [3] Most countries in the world recognize the existence of the climate problem and participate in its solution to varying degrees; a significant part of the business community also participates in this, including through the production of various environmentally friendly products, materials and technologies. On the other hand, a number of representatives of the energy, metallurgy and many other sectors of industry believe that the introduction of climate protection measures will reduce their competitiveness compared to countries that will not take such measures. As a result, such companies often engage in lobbying activities, blocking climate bills. [4]

Similar judgments are expressed at the level of political leadership in different countries: if we restrict our economy in the interests of the common good, and other countries do it to a lesser extent (or not at all), then we will undermine the potential of our industry and will not come closer to achieving the set goal. Such arguments are largely fair, since no country in the world can influence climate change alone (be responsible for its change), which is reflected in the constantly changing climate policy of many developed countries – suffice it to say that in the United States, President G. Bush objected to the introduction of restrictions for national industry in the interests of climate protection; B. Obama supported the climate agenda; D. Trump again denied, and J. Biden again supported climate protection measures. In such conditions, it is very difficult to implement an effective international climate policy.

Despite this, any state with a developed industry and emitting greenhouse gases can contribute to the common cause of climate protection. This will require political will and developed national environmental legislation, including a number of laws and regulations directly dedicated to combating climate change. The importance of this approach is that climate change affects all human and civil rights enshrined in the constitutions and laws of any democratic country, including the right to life (risk of additional mortality due to heat or natural disasters), the right to health (emergence of new diseases due to changes in the distribution range of dangerous insects – ticks, mosquitoes, etc.), the right to a favorable environment (deterioration of air quality due to emissions and forest fires, water pollution), the right to choose a place of residence (forced climate migration), the right to food (reduction in crop yields), the right to property ownership, etc. To mitigate the effects of climate change or adapt to them, the international community has already proposed a number of measures, the form of direct implementation of which will depend on the legal traditions and features of the legal system of an individual country that will implement them. At the same time, in addition to belonging to a specific legal family, this process will be influenced by numerous economic, political,

geographical and other factors unique to each country in the world. This determines the research interest in the formation of national legislative concepts to combat climate change, which will be very important in relation to Russia, which retains a powerful industrial potential. Such a concept can also be useful for other countries of the post-Soviet space, preserving the legal traditions and approaches formed in the USSR.

Based on this, in the first part of this article we will consider the concept of climate and the legal measures in force in Russia to protect it; in the second part we will identify the main problems and prospects of climate protection that are still waiting to be solved. In the third part, we will explain the structure of the model draft law on climate protection, offering it to the legislative authorities.

The Concept of Climate and Analysis of Legal Measures for its Protection in Russia

What is Climate and why it Should be Protected

There are many definitions of climate in scientific literature. Their common feature is an indication of the long-term weather regime in a certain area, caused by the altitude above sea level, distance from the ocean, land relief, the nature of anthropogenic impacts and a number of other factors. [5] The parameters of the long-term regime are determined by observing the weather in a specific region, a combination of stable and abnormal (droughts, rains, hurricanes) conditions of the atmospheric air, and its impact on the state of other natural objects. Climate research is carried out by a special science called climatology, the object of which is the climate of the entire Earth, individual continents and regions, as well as the microclimate of individual settlements. The climate of planet Earth is characterized by a global average temperature, depending on the concentration of greenhouse gases in the atmosphere. The increase in average annual temperatures (and, accordingly, climate change) in itself does not cause any special scientific discussions, since this dynamic is recorded by a network of stationary and mobile stations of international environmental monitoring. The main disputes among scientists concern the causes of the growth of greenhouse gases and the increase in average annual temperatures (ranging from natural processes beyond human control to emissions from the metallurgical, chemical and other industries). Representatives of medical, technical, biological and other sciences participate in the climate debate. The role of law in scientific climate research is minimal – with the help of law, one can only give an external mandatory (state-backed) form to proposals and procedures for climate protection proposed by representatives of other sciences.

Despite the secondary role of law in solving climate problems, it should be noted that the course of natural processes can either accelerate or slow down depending on the certainty of many management decisions, their thoughtfulness and effectiveness. Thus, without studying natural processes in themselves, law can still influence their course.

The inclusion of climate in the sphere of legal regulation gives rise to the question of its legal regime. Is climate a natural resource, or is it a certain set of physical and chemical connections and processes between atmospheric air and other components of the natural environment? Should climate be considered in the consumer aspect, in terms of safety for humans and the comfort of their lives, or is climate a more complex system, the state of which determines the survival of all biological species on Earth?

There is no clear answer to these questions either in Russian or in world legal science. In our opinion, climate is a fundamentally new type of objects of legal protection that did not exist before. Unlike ordinary natural objects (forests, land, water, subsoil, etc.) and complexes (nature reserves, national parks), the mechanism of protection of which from anthropogenic impact is well known, in the case of climate, legal science is not yet able to take it under legal protection, since the boundaries of this legal object, [6] the parameters of its state and the methods of legal provision of its proper quality are unclear. As a result, the law

regulates not so much the climate itself and its state, as a number of external parameters that entail climate change through the regulation of greenhouse gas emissions, that is, it uses a standard set of environmental and legal instruments known for many decades. It follows that until the science of climatology presents a clear system of ideas about the climate, the causes of its change and the means of counteracting it, legal science and practice will continue to operate within the framework of legal procedures inherited from previous eras and which are not very effective in the 21st century. However, this does not mean that we should wait for help from scientists from other sectors of science and do nothing. On the contrary, representatives of legal science, deputies of representative bodies of power and other interested representatives of civil society should seek and discuss those legal solutions that already exist and can be applied to climate protection.

The Existing Legal Regulation of Climate Protection in the Legislation of the Russian Federation: Its Advantages and Disadvantages

Recognition of the climate problem is the result of the political will of the legislative and executive authorities of a particular state, and the role of law in this case is of an enabling (implementation) nature. The Russian state has indicated its political will to protect the climate by signing the UN Framework Convention on Climate Change of 1992, as well as two international acts developing and supplementing its provisions – the Kyoto Protocol (no longer in force) and the Paris Agreement on Climate Change, having taken a number of legal measures to implement them at the national level. These measures can be designated as general and special measures; we will separately highlight the conditions for achieving these goals, partly going beyond the law. General measures include the adoption of political and legal acts of a programmatic nature, which outline the goals and objectives of the state in the field of climate protection. The most famous such act is the Climate Doctrine of the Russian Federation, approved by the Decree of the President of the Russian Federation of October 26, 2023. The Doctrine sets out the goals and objectives of the country's climate policy, its subjects, and a list of measures to mitigate and adapt to climate change. The group of special measures includes laws and regulations directly (or indirectly) devoted to mitigating the effects of climate change, as well as regulatory legal acts aimed at developing measures to adapt to climate change. Among the first, we should mention the Federal Law of July 2, 2021 "On Limiting Greenhouse Gas Emissions", which defines measures to reduce greenhouse gas emissions through state accounting of greenhouse gas emissions; setting targets for reducing greenhouse gas emissions; supporting activities to reduce greenhouse gas emissions and increase the absorption of greenhouse gases. In development of this law, a number of by-laws were adopted that determine the procedure for maintaining the register of carbon units, formulate criteria for classifying projects implemented by legal entities as climate projects, etc.

Indirectly aimed at mitigating the effects of climate change is the Federal Law "On the Protection of Atmospheric Air", dedicated not to the global climate, but to the protection of atmospheric air as a natural object, and contributing to the achievement of climate protection goals and objectives in Russia. A special place in this group is occupied by the Federal Law of March 6, 2022 "On conducting an experiment to limit greenhouse gas emissions in certain constituent entities of the Russian Federation", according to which a legal experiment is being conducted in the Sakhalin Region from September 1, 2022 to December 31, 2028, the purpose of which is to stimulate the introduction of new technologies for reducing and absorbing greenhouse gas emissions, the formation of an independent verification system and conditions for the circulation of carbon units. The second group of special measures aimed at adaptation to climate change includes the order of the Government of the Russian Federation of March 11, 2023, which approved the National Action Plan for the Second Stage of Adaptation to Climate Change for the Period up to 2025. This plan contains 17 measures, which are summarized in federal, regional and sectoral blocks. These measures provide for organizational, legal, informational and other measures to adapt to climate change, for example, improving

the insurance mechanism taking into account the risks of natural disasters. Within the framework of this general strategy, both plans for measures to adapt to climate change at the regional level (for example, in the Chechen Republic, the Republics of Adygea, Khakassia, etc.) and plans for adaptation to climate change at the sectoral level (for example, in transport) are adopted.

Thus, Russia is carrying out fairly consistent work to implement international obligations arising from the 2015 Paris Agreement on Climate Change. At the same time, the existing system of legal regulation of climate protection has a number of shortcomings that require discussion.

1) From the point of view of legal technical standards, it would be most appropriate to reflect the main directions of combating climate change in the main environmental law, as is done in the Environmental Code of the Republic of Kazakhstan dated January 2, 2021. Meanwhile, the main environmental law of Russia (Federal Law "On Environmental Protection" dated January 10, 2002) does not mention climate in any context, therefore, climate is not an object of legal protection in the Russian Federation. This approach cannot be supported, therefore, the law requires changes, including the development of a full-fledged conceptual and categorical apparatus.

2) In many federal states (especially in the USA), federal subjects are vested with a large volume of powers to implement climate policy. In particular, when the administration of G. Bush and D. Trump in the USA was curtailing climate policy (in the absence of a special federal law on climate), the US states, nevertheless, made progress in regulating climate and environmentally friendly energy, and even initiated a number of federal regulations aimed at eliminating climate risks in accordance with the Clean Air Act and federal energy laws. [7] This experience may also be of interest to Russia, given its size and regional characteristics (geographical, climatic, economic and others). Today, regions in Russia participate only in climate change adaptation measures (largely formally), while their potential for climate mitigation is not in demand.

3) The model of Russian climate legislation has a number of shortcomings. Firstly, the Federal Law "On Limiting Greenhouse Gas Emissions" is of a framework nature. [8] To implement it, a large number of by-laws must be adopted. Some of them have been adopted, the rest are in the development stage. Meanwhile, the effectiveness of this approach raises a number of doubts from the point of view of legal technique – in our opinion, the federal law should be more substantive in nature. And even if we consider that this law was originally conceived to regulate only the organizational and legal mechanism of climate protection, then it is inconsistent. For example, it does not indicate the specifics of monitoring climate change, although the scientific literature has repeatedly drawn attention to the need for direct regulation of climate monitoring. [9]

In addition, there is no mention of other climate regulation measures (regulation, control, environmental impact assessment and many others). Secondly, the law regulates only administrative (managerial) issues related to maintaining a register, target indicators for reducing emissions, etc., although the climate problem is complex and requires an answer to financial, natural resource and other issues that are not presented in the law.

Thirdly, the law deals with measures to mitigate the effects of climate change, but there are no measures to adapt to climate change. Fourthly, climate issues are not integrated into other environmental legislation (for example, in terms of requirements for certain types of activities, conducting environmental assessments, reforestation, developing a system of renewable energy sources), there is no system of economic incentives for economic entities participating in the implementation of climate projects.

Controversial Issues of Climate Legal Regulation in Russia: Analysis of Some Legislative Gaps

The existing gaps in Russian climate legislation partly reflect global trends, since solving the climate problem by means of law is an objective difficulty. Without being able to analyze them all in detail, we will show the essence of this problem using two examples: the circulation of carbon units and climate torts.

Legal Problems of Circulation of Carbon Units

Since the adoption of the Kyoto Protocol, legislation has been taking shape in the developed countries of the world, regulating, among other things, the sale of quotas for greenhouse gas emissions. [10] At the same time, from a legal point of view, it remains unclear what exactly one legal entity sells to another. He cannot sell the quota, since the quota is designated as a unit of measurement (in tons). The right to emit greenhouse gases cannot be sold either, since emission permits are issued by a specially authorized environmental authority in an administrative rather than civil procedure. It remains to be assumed that the subject of sale is greenhouse gases, but the civil legislation of all countries of the world does not know such an object of civil rights. In this regard, it is difficult to agree with the claims that greenhouse gas quotas are a new type of commodity that is traded like any other commodity. [11] The Federal Law of July 2, 2021 "On Limiting Greenhouse Gas Emissions", which provides (Article 11) for the conversion and offset of carbon units (1 unit is equal to 1 ton of carbon dioxide), did not clarify this issue either. This norm has not yet begun to fully operate, since by-laws defining the mechanism of such treatment have not been adopted.

Nevertheless, the existence of such a potential opportunity gives rise to a doctrinal discussion about the legal nature of quotas for greenhouse gas emissions (or in the Russian interpretation of carbon units). It is difficult to consider the alienation of carbon units not as a kind of purchase and sale, but as an administrative and legal procedure, since the alienation occurs between legal entities and is compensatory, which means it is a contractual (civil law) relationship. In our opinion, the solution to this problem could be to normatively recognize quotas for greenhouse gas emissions (and carbon units) as a type of waste category known to the Russian Civil Code (Article 226). At the moment, the Civil Code and the Federal Law of June 24, 1998 "On Production and Consumption Waste" clearly regulate the legal regime of solid waste; a number of by-laws mention liquid waste. We propose to introduce the category of "gaseous waste" into civil and environmental legislation; then it will be clear which object of civil rights is being sold by the owner of the emission quota (carbon unit). Currently, there are 18 quota trading schemes in the world, their number is growing every year, so the proposed design may be of interest to other countries of the world. Accordingly, an article should be added to the Civil Codes regulating the specifics of the purchase and sale of such an object of civil rights.

Compensation for Damage Caused by Climate Change

The issues of compensation for climate damage are constantly in the focus of the international community. For example, at the UN Climate Change Conference (COP27) in November 2022 in Egypt (Sharm el-Sheikh), a number of countries signed an agreement to create a fund for compensation for losses and damage caused by the climate. This fund will provide financial assistance to vulnerable countries affected by global warming. [12] And there are many such examples. Meanwhile, they are not about compensating for the damage caused by climate change to the life, health and property of citizens (property of legal entities), but about the allocation of financial assistance to individual countries, which lies outside the framework of classical tort relations. If we talk about the latter, then the scientific literature suggests distinguishing between climate losses and damage,

which denote the adverse effects of climate change that occur despite all efforts to mitigate the effects of climate change and adapt to them. "Losses" mean the irreversible loss of human lives, culture and biodiversity. They may include an economic and non-economic component (loss of cultural heritage). "Damage" refers to negative climate impacts when restoration of the previous situation is possible. Losses and damage begin where the limits of adaptation end, which is hampered by a number of technological and resource limitations. [13] Judicial practice in tort climate cases is most fully represented in the United States, although in recent years the number of such claims has been growing in other countries. In the United States, claims for compensation for climate damage have been filed en masse by citizens and public associations since the 2000s. One of such well-known cases was an attempt to limit CO. emissions by the American automobile industry through the courts. However, the claim was rejected on the grounds that the courts cannot determine the volumes of emissions for different sectors of the economy (energy, transport, industry, etc.), since this falls within the competence of the legislative and executive branches. [14] A more effective strategy turned out to be forcing national governments to develop a more constructive public policy in the field of reducing greenhouse gas emissions. [15]

For example, in the Netherlands, the environmental public movement Urgenda Foundation and 900 citizens filed a lawsuit against the government in 2015, stating that the government's revision of greenhouse gas emission reduction targets violated its constitutional obligations. As a result of the lawsuit, the court ordered the Dutch government to limit greenhouse gas emissions by 25#% (instead of the expected 17#%) below 1990 levels by 2020, finding the government's plans inconsistent with the country's international obligations to implement the 2015 Paris Climate Agreement. Although the court did not issue direct orders on how to reduce emissions, it pointed to two possibilities – emissions trading and tax measures. [16] In the US judicial practice of 2023-2024, we also encounter a number of interesting cases. In particular, the US court heard a lawsuit challenging a California law that required all new cars and light trucks sold in California to be zero-emission by 2035. The plaintiffs argued that the law would have a disproportionate adverse effect on low-income groups, make it more difficult for them to access reliable transportation, and that it was inconsistent with the state's legitimate interests in reducing greenhouse gas emissions. [17] In another case, sixteen municipalities in Puerto Rico, USA, filed a lawsuit seeking to hold fossil fuel oil and gas companies liable for damages resulting from hurricanes in 2017 and for ongoing economic losses since 2017. The plaintiffs alleged that the defendants were responsible for 40.01#% of all global industrial greenhouse gas emissions from 1965 to 2017, and that these emissions caused climate change that increased the intensity of hurricanes Irma and Maria. [18] In recent years, we have also seen children sue for violations of their climate rights. [19] This list can be continued.

Summarizing the existing practice, the scientists make several interesting conclusions. Firstly, the following classification of climate claims is proposed: encouraging government agencies to fulfill their obligations under the 2015 Paris Climate Agreement; prohibition (or restriction) of large government projects that have negative environmental (climate) consequences; violation of human rights; compensation for past or current damage that caused climate change; claims against large companies or financial organizations (refusal to provide information, incomplete disclosure or false information, ignoring climate issues when making investment decisions, etc.); lack of adaptation measures and proper environmental impact assessment (most often in the United States and Australia). [20] According to other scientists, the practice of climate claims looks like this: forcing governments to fulfill their legislative and political climate commitments; linking the consequences of resource extraction with climate change; establishing that specific emissions are the direct cause of certain adverse consequences of climate change; establishing liability for failures (or insufficient efforts) to adapt to climate change; application of the public trust doctrine to climate change. [21] In addition, it should be noted that some court cases go beyond the above-mentioned classical constructions, a typical

example of which are climate claims of indigenous peoples, raising the question of the relationship and interrelationship between environmental damage, climate change and human rights guarantees.

The following conclusions can be drawn from the above review. Compensation for damage caused by climate change, even in developed countries, faces objective difficulties due to the legal uncertainty of climate as an object of legal relations, its boundaries, state, the difficulty of proving cause-and-effect relationships between the activities of an economic entity (defendant) and the negative consequences that have occurred (hurricanes, floods, droughts, etc.). Therefore, climatologists are increasingly asked to translate their scientific doctrines on the connection between extreme weather events and climate change into the legal plane for courts considering issues of causality, which causes great difficulties due to the ambiguity of the problem. [22] At the same time, while in the United States and other countries the scientific doctrine seeks ways and means to solve these problems, in Russia civil science excludes the possibility of collecting this type of damage, and this issue is not discussed by civil scientists. In reality, damage to the property of citizens caused by climate change (destruction of houses as a result of floods, hurricanes) is compensated by the subject of the Russian Federation – this issue is devoted to Article 24 of the Federal Law of December 21, 1994 No. 68-FL "On the Protection of the Population and Territories from Emergencies of Natural and Man-Made Nature". The situation may gradually change in the event of the development of climate science, an increase in natural scientific knowledge about the climate, its state, changes, the construction of digital mathematical models of climate change, the growth of the effectiveness of measures to mitigate or adapt it, etc. However, already now in many countries of the world the protection of the climate rights of citizens and their associations does not follow the path of compensation for climate damage, but through other legal proceedings indicated above. This trend should be taken into account when preparing national bills on climate protection. In terms of climate torts, we note that in the formation of future judicial practice in such cases, a large role can be played by specialized environmental courts already operating in certain countries of the world, [23] as well as the creation of an independent national expert and advisory body (it could be called the Supreme Climate Council), which could provide expert opinions on controversial issues of the application of climate legislation.

Proposals on the Structure and Content of the Draft Federal Law "On Climate Protection in the Russian Federation"

As the Roman philosopher Lucius Seneca once wrote, "for a ship that does not know which harbor to go to, no wind will be fair". [24] With regard to Russian climate legislation, this means that the political goals of climate protection are stated in the country's policy documents (Strategies, Concepts), but legally binding goals and mechanisms for achieving them are represented by 2 framework federal laws (and the scope of the second one is one region of the country (Sakhalin region), where the climate experiment is being conducted), as well as several dozens of by-laws that are not built into a coherent system. Meanwhile, for the country to fully implement its international obligations, a full-fledged (and not a framework) law is needed, which fits perfectly into the traditions of the Russian legal system. This law should not only fix the problems that exist at the moment and suggest ways to solve them, but also perform a predictive function, model and predict the development of events, as well as solve them in advance by legal means. In this regard, we propose to discuss the following structure of the draft Federal Law "On Climate Protection in the Russian Federation" with our small comments on the text. This law should include five sections combining the relevant articles.

General Provisions

This section should contain articles defining the objectives of the adoption of the law; its scope; clarifying its key terms (climate; climate change; mitigation; adaptation; carbon footprint; greenhouse gases; carbon

units; climate projects, etc.); basic principles (precautions; voluntary implementation of climate projects; mandatory reporting on greenhouse gas emissions, etc.). The importance of including a list of principles in the law lies in the fact that they define the main ideas and objectives of the law, determine its basic legal procedures and content. A separate article of the draft law should be devoted to the climate rights and obligations of citizens and their associations. In order to achieve the goals of the law, it will be very important to clearly consolidate the powers of federal executive authorities in the field of climate protection, the powers of the subjects of the Russian Federation, local governments, as well as the grounds and procedure for transferring federal powers to a subject of the Russian Federation (with financing and control). Among the federal powers, it is necessary to mention both tactical powers (determining the procedure for maintaining a register of greenhouse gas emissions, reporting procedures, stimulating activities to reduce emissions, etc.) and the need to develop a national strategy and plans to counter climate change.

Mitigation of Anthropogenic Impact on Climate

This section will be devoted to the activities of public authorities and civil society aimed at reducing sources or reducing greenhouse gas emissions. The first chapter of this section will be devoted to classical climate protection management measures, which are already partly included in the Federal Law "On Limiting Greenhouse Gas Emissions" (maintaining a register of greenhouse gas emissions; defining target indicators for reducing greenhouse gas emissions; criteria for climate projects, etc.), as well as those management powers that need to be reflected in the law (climate change monitoring; state climate control (supervision); sale of carbon units at auctions).

The second chapter should be devoted to measures to reduce greenhouse gas emissions in various sectors of the economy: industry, energy, construction, transport, agriculture, waste management. Such measures include increasing the number of electric vehicles, increasing energy conservation, developing renewable energy sources, [25] banning waste incineration, etc.

The third chapter will include urban planning powers of local governments aimed at mitigating anthropogenic impact on the climate. The scientific literature has already discussed urban planning climate zoning measures that affect the climate (the density and nature of development affect carbon dioxide emissions; the importance of supporting the standard of "green" construction and energy efficiency of buildings is noted). [26]

In Russia, measures to mitigate anthropogenic impact on the climate by urban planning and legal means are also being discussed and implemented. The Urban Planning Code of Russia provides for territorial planning at the federal, regional and local levels. The corresponding schemes should record existing and planned public facilities (transport, energy, etc.). In light of the implementation of the climate change mitigation strategy, such schemes will record new types of energy facilities planned for construction in the future, related to the use of renewable energy sources (solar panels, wind farms, etc.). This will reduce the level of greenhouse gas emissions. In addition, they can take into account forecasts of internal population migration and the resulting plans for the placement of industrial facilities. However, the accuracy and feasibility of such plans will require reliable forecasts from climatologists. Separately, it is necessary to highlight the inevitability of adjusting the modern understanding of urban planning regulations that determine the nature and parameters of the development of residential, public and other territorial zones. The fact is that in a number of developed countries, neighboring disputes are already arising due to the shading of neighboring areas by wind generators, the negative consequences of their use (noise, vibration, interference, etc.), and the increased fire hazard of solar panels. [27] Russia should also prepare for the emergence of such disputes.

Adaptation to Climate Change

Adaptation is the ability of natural and anthropogenic systems to adjust to actual or expected climate change (their consequences), which reduces damage or creates new opportunities. The draft law should indicate that adaptation to climate change is manifested in the adoption by the state of measures to develop new drought-resistant plant varieties; subsidize the installation of new irrigation systems (e.g. drip irrigation); develop new means of combating plant pests and new technologies for combating soil salinization; acclimatize new species of flora and fauna; introduce new economic models of employment for citizens affected by drought; create a mechanism to protect the rights of environmental refugees (or internally displaced persons); develop healthcare in view of the risk of new diseases (due to changes in the habitat of dangerous insects due to climate change), etc. The proposed draft law should distinguish between reactive adaptation (occurring in response to impacts that have already occurred) and proactive adaptation (actions taken to eliminate predicted impacts).[28]

Thus, adaptation programs may include preventive actions to prepare for sudden events (storms, hurricanes, droughts) and reduce their consequences (construction of dams and strengthening of banks), as well as actions that will be taken in response to such events (evacuation of the population from the flood zone). The draft law should prescribe the procedure for adopting federal and regional adaptation strategies, ensuring their public discussion, and a mechanism for implementing the decisions embedded in them.

A separate article of the draft law should regulate the implementation of forest climate projects (aimed at restoring forests, increasing their absorption capacity in cities, on forest fund lands, including planting trees of certain species that best absorb greenhouse gases), and the fight against forest fires. The implementation of such projects will lead to increased absorption of carbon from the atmosphere, reduced risk of floods, reduced erosion of agricultural lands, and increased recreational attractiveness of forest areas. A separate article of the draft law should regulate the specifics of adaptation to climate change for indigenous peoples who traditionally use natural resources. It is advisable to include forest climate projects in the forest plans of the constituent entities of the Russian Federation, which determine the goals and objectives of forest planning, as well as the intensity of forest development.

Conditions for the Implementation of State Climate Policy

This section of the draft law will be devoted to additional incentives and conditions that allow for the implementation of mitigation and adaptation measures.

The main focus here will be on economic incentive measures (benefits, loans, subsidies, etc.) for the purpose of financing and implementing the results of innovative research aimed at reducing greenhouse gas emissions (carbon dioxide capture and storage), developing and implementing the best available technologies (updating relevant reference books to include carbon emission indicators), implementing carbon farm projects, stimulating climate audits and insurance, determining the procedure for calculating fees for greenhouse gas emissions (indicating the target nature of the fee, i.e. the need to use it to solve problems of reducing greenhouse gas emissions), developing a system of "green" procurement, introducing a special carbon tax to reduce the carbon footprint. Separate articles of the draft law will be devoted to the development of climate education and awareness as an important condition for the implementation of state climate policy.

It is supposed to explain to citizens in schools, universities and through the media the standards of climate-neutral behavior at work (at home) in order to choose carbon-neutral products, reduce energy consumption, improve nutrition and choose vehicles. [29] Thus, citizens can stop using plastic bags for products, the manufacture of which annually requires the consumption of millions of barrels of oil. Citizens can install

small home solar panels, buy products grown in their region or municipality at a local store, which will reduce the cost of their delivery and emissions from road transport. In fact, people will even benefit from it. [30]

The draft law should include a number of articles regulating the informational climate interaction of authorities with citizens and public environmental associations, including the use of digital mechanisms for identifying public opinion, informing about measures taken by the state to mitigate and adapt to climate change. A separate article will be devoted to international cooperation.

Final and Transitional Provisions

In the Russian legal system, the implementation of some of the above provisions is possible only by amending other laws. So, since all the elements of administrative offenses must be located in the Code of Administrative Offenses of the Russian Federation (CAO), in the final part of the bill a new offense will be formulated (for the emission of greenhouse gases without obtaining permission, as well as the failure (late submission) of reports on greenhouse gas emissions by legal entities), which will be included in the CAO. Since all taxes must be specified in the Tax Code, the draft law under consideration will supplement the code with a new article (on benefits for individual taxes and a new carbon tax).

In addition, amendments will be required to the Federal Law "On Environmental Protection" of January 10, 2002 (climate should be added to it as an object of legal protection), to the Forest Code (in terms of forest-climatic projects), the Civil Code (in terms of clarifying the list of objects of civil rights and the specifics of the purchase and sale of carbon units, since it is impossible to sell objects of the material world that do not fall under the law). It should be noted that the issues of compensation for damage caused by climate change have no solution at the current level of development of climatology, and therefore such changes to the Civil Code are not advisable.

The federal law on greenhouse gas restrictions will become invalid, and the proposed bill will enter into force from the date of its official publication.

Conclusion

Currently, almost every country in the world has at least one law aimed at combating climate change; there are 1,800 such laws in the world, which vary greatly in type, scope and purpose. [31] Russia also contributes to these global trends, which has a Federal law "On Limiting Greenhouse Gas Emissions" dated July 2, 2021, in the development of which several dozen by-laws have been adopted. A climate experiment is currently underway in one of the regions of Russia (Sakhalin Island), if successful, the experience gained will be extended to the rest of the country. Finally, there are many political (program) documents defining the vector of the country's long-term climate development strategy. But despite a number of successes already achieved, Russian climate legislation remains haphazard and incomplete.

We see the solution to this problem in the form of the adoption of a full-fledged climate law regulating all major aspects of the country's climate policy. Our author's contribution here is that the main gaps and conflicts of the Russian climate legislation have been identified, ways of solving them and trends in the development of judicial practice to protect the climate rights of citizens have been analyzed; the category of conditions for the implementation of climate policy has been developed, which represents legal instruments and procedures that are not directly climate-oriented, but which can be used to solve the climate problem, contributing to the implementation of climate legal norms; the structure of the law, its basic norms and procedures are argued; the impossibility of including norms on climate torts in such a law is shown; the relationship of norms is revealed civil, administrative, financial, and environmental law, collectively regulating climate issues. We are convinced that within the framework of the Russian legal system, a full-fledged climate

law is more promising than a framework law, since such an approach allows not only to respond to existing problems and threats, but also to carry out the predictive function of law, predict climate hazards in the future and lay down a mechanism for solving them today. The existence of effective climate legislation in the country will also mean its movement towards the transition to sustainable development and the construction of a "green" economy, since all these strategic goals are strongly interrelated. And the greater the contribution of Russia and other countries of the world to solving the common climate task specified in the 2015 Paris Climate Agreement. (Russia has set itself an ambitious goal – to ensure a balance between anthropogenic greenhouse gas emissions and their absorption no later than 2060), the more likely it is that the world community will be able to avoid a climate catastrophe. And although the role of law is not the main one in solving the climate problem, it is with its help that political decisions are given binding force. Therefore, the discussion about law and climate will continue, and the proposed doctrinal model may be of interest not only to the Russian legislator, but also to representative authorities of other post-Soviet countries that are part of the same legal family.

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