

Theoretical Issues of Legal Regulation of Municipal Solid Waste Handling

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Abstract

The relevance of comparative analysis of legal regulation of environmental protection is due to several reasons. Firstly, it expands the boundaries of interpretation of legal norms and acts of environmental law. Secondly, it allows relying on experience in the latest achievements of legislative activity in developed countries. Thirdly, taking into consideration the legislative mistakes of other countries, it helps to avoid similar mistakes in the process of improving Kazakh legislation. And finally, it is the starting point for multilateral and bilateral cooperation in the field of environmental law.

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INTRODUCTION

Modern development of the Republic of Kazakhstan reveals that legal regulation mechanism of natural resource management, regulated by "Environmental Code of the Republic of Kazakhstan", is not sufficient to ensure the reduction of environmental pollution by municipal solid waste. Lack of flexible specific legal regulation on the micro level, which could allow the use of waste as secondary resources, is likely to lead to urban area pollution from industrial processes. Pollution transformation appears as a result of disposal of solid waste, defined by modern environmental requirements. According to the article of the Environmental Code of the Republic of Kazakhstan, there is a cluttering of suburban land spaces, leading to their further unsuitability; deterioration of drinking water due to leakage of geochemical processes in landfills, leading to leak of decay and degradation products into groundwater and surface waters; pollution of the atmosphere by primarily harmful organic substances formed during the combustion of domestic waste [1].

Modifying an existing solid waste management technology is only possible when a qualitative revision and expansion of the range of environmental instruments will take place. Firstly, there will be built different environmentally acceptable solid waste management scheme, and secondly, it will be possible to support measures, affecting all kinds of waste components and each type of pollutant. This will take into consideration environmental aspect of the problem to reduce damage to the urban economy, both in the process of production of goods and in the process of consumption.

The development of technological and industrial relations, the achievements of scientific and technological revolution has led to a change in the culture of consumption of goods (packaging), which increases the amount of waste. Increased proportion of imported goods in the amount of consumption and the prevalence of consumption patterns of Western culture are responsible for approaching the composition and quantity of solid waste to that of industrialized countries.

On the other hand, the growth of municipal solid waste takes place in the absence of their systematization and classification; therefore it is necessary to develop a set of economic measures based on market economic conditions, to reduce the negative impact of solid waste on the sustainable development of the «Green Economy» [2]. Thus, there is a need for legal limitation of solid waste management process with the help of modern tools, such as, the legal regulation of the solid waste processing, and activities such as, the formation of the waste management system and the reorganization of the market of solid waste.

A huge amount of industrial and household waste accumulated on the territory of the country poses a real threat to the welfare of the population, and the measures taken in relation to waste accumulations yet are insufficient [3,42].

Scientists of Kazakhstan and foreign countries have discussed the issues of legal regulation of municipal solid waste management.

The dissertation research of A.P. Ospanov is a starting point in the beginning of the study on theoretical problems of legal ensuring of safe waste management in the development of domestic legislation regulating the issues related to the waste management. It investigated peculiarities of legal protection of the environment from waste pollution and provides a list of industry principles and specific provisions of legal regulation of relations in the field of waste management [4].

Abdraimova M.J. raises issues of ecological safety and environmental protection of the interests and rights of the individual, society and state from threats arising from man-made and natural impacts on the environment [5,10].

Radecki and Schoytsiech noting these changes, classify them as follows: general principles of administrative decision-making for waste producers and additional terms of processing and recycling of waste; the establishment of a new control system for the management of municipal waste; procedures for hazardous waste management, etc. [6, 79].

Brinchuk M.M. breaks an established scheme of environmental law subject. According to Brinchuk M.M., the object of this industry form property relations on natural sites and resources, on nature management, on environmental protection from various forms of degradation, for the protection of environmental rights and legal interests of individuals and entities [7, 63].

Yerkinbayeva L.K. argues that there is no clear state policy in the law of the Republic of Kazakhstan concerning the packaging materials; the rights and responsibilities of manufacturers of packaging materials are not clearly identified; There are no legislatively established regulation of economic measures, including financing and investment, taxation, packaging materials and waste issues; There is no legally defined state bodies as well as economic entities, which would handle problems with packaging materials and waste; there is a problem of over-regulation of economic activity. Complex and non-transparent procedures followed by employers in creating and running a business are the most serious obstacles to economic growth. These procedures increase production costs and expenses of entrepreneurs, therefore limiting their access to the market, impeding business development, worsening the business environment and promoting corruption. Administrative barriers are among the causes of the shadow economy. Based on the above, this study proposes to improve the legislative and institutional framework to encourage the involvement of enterprises in the process of collecting, processing and recycling of used packaging containers [8,45].

Wu X., and Zhu T. argue that China is the largest municipal solid waste generator. Despite many policies and regulations central and local government of China has issued in recent years, which of course have achieved noticeable progress, there is still incorrect municipal solid waste management legislation and lack of control. Local authorities are the ones who are responsible for municipal solid waste management. In this context, the current situation of municipal solid waste institutions in China should be analyzed. The study conducted by Wu X., and Zhu T. aimed to summarize the most recent information on legislation, policies, regulations, management system and technical standards related to municipal solid waste in China as well as to review the current status and identify the barrier and challenges. In addition they reviewed opportunities related to municipal solid waste management, presented several possible and appropriate solutions that might facilitate municipal solid waste management institutions in China. Wu X. and Zhu T. concluded that the solutions in cooperation with EU on municipal solid waste management are likely to lead low-carbon economy and may low down the pressure caused by large amount of municipal solid waste and reduce high disposal cost to an extent [9,50].

From the investigated above issues the following conclusions are presented: Firstly, the effectiveness of work to neutralize the harmful effects of solid waste on human health and the environment will be provided if it will be carried out comprehensively and include two interrelated components. The first is the selection and application of modern technologies for processing industrial waste, aimed at their use for the production of the necessary products for the national economy. The second component is the selection of effective organizational measures for safe household waste management. These two directions need to find a comprehensive regulatory approval at the legislative level.

Secondly, conducted analysis of environmental legislation as well as the study of the characteristics of different types of waste makes it possible to formulate the concept of environmental protection from municipal solid waste pollution. Protection of the environment from municipal solid waste pollution is a complex of regulatory measures, institutional and law enforcement order, which are focused on the safe management of waste and their effective use as a raw material.

Taken together, these measures constitute the content of the environmental activities of the State, its competent authorities and economic agents are aimed at reducing the amount of waste and removing them from the environment to the established environmental standards.

Thirdly, based on the analysis of environmental legislation as well as studies of the characteristics of different types of waste the concept of the management of activities regarding the management of solid waste production and consumption was developed in this study.

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