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Research Article

ENVIRONMENTAL POLLUTION AND HUMAN GENETIC HEALTH: CRIMINAL LEGAL ASPECT

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The purpose of this work is to study the issue of effectiveness of the criminal law regulations for minimizing the consequences of environmental pollution, including the consequences related to human genetic health. Moreover, the author of the article analyzes data concerning environmental pollution. The article assesses the importance of the protective power of criminal laws regulating responsibility for committing environmental crimes in order to protect human genetic health. An assessment of the dispositions of a number of environmental crimes was made using the formal legal method, and in particular the corpus delicti provided for in Part 1 of Article 251 of the Criminal Code of the Russian Federation (air pollution), in terms of the formulation of criminal consequences, in particular from the point of their differentiation from the compositions of related administrative offenses. Proposals were developed for discussion on improving these elements of environmental crimes based on the results of the study.

Key words: *criminal law, environmental crimes, environmental pollution, air pollution, human genetic health, criminal consequences*

Introduction

The Constitution of the Russian Federation in Article 42¹ proclaims the right to favorable environmental conditions as one of the inalienable rights and freedoms of man and citizen.

State policy attaches great importance to environmental protection. This, for example, can be evidenced by the fact that 2017 was declared the Year of Ecology by the Decree of the President of the Russian Federation of January 5, 2016 N 7 ‘On holding the Year of Ecology in the Russian Federation’².

Relations with respect to environmental protection are regulated by special federal laws and other bylaws that are part of the regulatory structure of environmental law.

So, according to the basic special legislative act on environmental protection – the preamble of the Federal Law of January 10, 2002 N 7-FZ ‘On Environmental Protection’³ (hereinafter – the Law on Environmental Protection), ‘the legislator regulates relations in the sphere of interaction between society

¹ The Constitution of the Russian Federation (taking into account the amendments introduced by the Laws of the Russian Federation on amendments to the Constitution of the Russian Federation of December 30, 2008 No. 6-FKZ, December 30, 2008 No. 7-FKZ, of February 05, 2014 No. 2-FKZ, of July 21, 2014 No. 11-FKZ). Garant Database.

² Decree of the President of the Russian Federation No. 7 of January 5, 2016 ‘On holding the Year of Ecology in the Russian Federation’. Garant Database.

³ Federal Law of January 10, 2002 N 7-FZ ‘On environmental protection’. Garant Database.

and nature arising from the implementation of economic and other activities related to the impact on the natural environment as the most important component of the environment, which is the basis of life on Earth, within the territory of the Russian Federation, as well as on the continental shelf and in the exclusive economic zone of the Russian Federation⁴.

However, the variety of norms governing these relations does not yet testify to the effective legal regulation of this type of social relations, since, firstly, quantity does not always turn into quality, and secondly, as S. M. Budzinsky, a Russian legal scholar and specialist in the field of criminal law, noted in his works, ‘a positive law defining our rights and obligations would be a dead letter if it were, at the same time, deprived of protective measures, if it did not threaten this in case of violation thereof’ (Budzinsky, 1870).

This implies the unconditional importance of the effectiveness of the protective function of the criminal law in the sphere of public relations that protect the environment both as a whole and in terms of each of its components.

On the example of public relations related to the protection of such a component of the natural environment as atmospheric air, it can be seen that in recent years the quality of atmospheric air, especially in large cities, remains a serious, developing problem.

This can be seen on the example of the city of Moscow. The state of Moscow’s atmosphere is publicly outlined every year and published on the Moscow authorities’ electronic resources, in annual Reports on the state of the environment in Moscow. An example is the 2018 annual report⁵.

The main sources of air pollution are stationary (energy enterprises, industrial enterprises, etc.) and mobile (vehicles) sources of pollution. For example, energy is one of the largest industries in terms of emissions and is characterized by an increasing volume of emissions of substances that pose a potential threat to the environment and its components and to the life of citizens (see paragraph 4.1., Chapter 4. The report on the state of the environment in Moscow in 2018⁶).

In clause 3.1.3. of the Survey of the State and Pollution of the Environment in the Russian Federation for 2018 issued by the Federal Service for Hydrometeorology and Environmental Monitoring, Roshydromet (hereinafter referred to as the Survey of the State of the Environment) a list of cities in which cases of high air pollution were registered where the one-time maximum permissible concentrations (MPC) of individual impurities were exceeded more than 10 times in 2018⁷.

For example, the industrial city of Magnitogorsk in the Chelyabinsk region is indicated among such cities where emissions exceeding the one-time maximum permissible concentration for the substance benzopyrene were noted.

Currently, there is a basic criminal law that protects against encroachments on relations associated with atmospheric air – Article 251 of the Criminal Code of the Russian Federation (hereinafter referred to as the Criminal Code of the Russian Federation), the disposition in part 1

of which criminalizes violation of the rules for the emission of pollutants substances into the atmosphere or violation of the installations operation, structures and other facilities, if these acts resulted in pollution or other change in the natural properties of the air⁸.

In accordance with part 2 of Article 31 of the Criminal Procedure Code of the Russian Federation, criminal cases under Article 251 of the Criminal Code of the Russian Federation are subject to consideration by district courts⁹.

At the same time, according to the open data available on the websites of district courts in Magnitogorsk (Leninsky, Pravoberezhny, Ordzhonikidze district courts in Magnitogorsk), that is, those courts that have

⁴ Federal Law of January 10, 2002 N 7-FZ ‘On environmental protection’. Garant Database.

⁵ Department of Natural Resources and Environmental Protection of the City of Moscow & Government of the City of Moscow (2019) On the State of the Environment in the City of Moscow in 2018. In: Kulbachevsky, A. O. (ed.) Moscow. Available at: <https://www.mos.ru/eco/documents/doklady/view/227443220/> [Accessed 09 May 2020].

⁶ Ibidem.

⁷ Federal Service for Hydrometeorology and Environmental Monitoring (2019) Review of the State and Pollution of the Environment in the Russian Federation for 2018. In: Chernogaeva, G. M. (ed.). Moscow. Available at: <http://www.meteorf.ru/product/infomaterials/90/> [Accessed 09 May 2020].

⁸ Article 251 of the Criminal Code of the Russian Federation (June 13, 1996 No. 63-FZ). Garant Database.

⁹ Article 31 of the Criminal Procedure Code of the Russian Federation (December 18, 2001 No. 174-FZ). Garant Database.

jurisdiction over this category of cases in Magnitogorsk by law, it follows that such element of criminal-legal accusation was never applied neither in 2018, nor in 2019, nor in 2020.

The official recognition of the problem of air pollution in a particular industrial city and the complete absence of criminal law practice in this category of cases in the same city, of course, cannot but cause a dissonance in the perception of these facts by the researcher.

The position was stated in the scientific works of lawyers that the social danger of a specific environmental impact on the environment and on its individual components has not been fully studied. In particular, I cannot but agree with the position of I. V. Popov, who believes that ‘the concept laid down in the Criminal Code of the Russian Federation, according to which only such acts are criminal that resulted in the obvious, massive destruction of representatives of the animal and plant world, or caused harm to human life and health’ is wrong. When a systematic, long-term pollution of nature takes place, the reproductive function of living organisms is disturbed, as a result of which they do not reproduce their population (Popov, 2021: 403–404).

That is, certain species of living organisms may disappear from the habitat over time.

Biological scientists confirm the validity of this hypothesis. Doctor of Biological Sciences R. F. Garipova expresses her opinion, to which I. V. Popova also refers, as follows: ‘in connection with the progressive technogenic pollution of biological resources with weak mutagens, the problem of the long-term consequences of such an impact is becoming increasingly important. The spread of low concentrations of mutagens increases the number of oncological diseases among the population’ (Garipova, 2011).

So biologists point out that ‘industrial waste from enterprises is the cause of hereditary diseases, congenital developmental disorders and oncological diseases’ (Makrushin, Makrushina & Plugatar, 2021: 404). ‘As evidenced by the research results, atmospheric pollution leads to significant violations of the human chromosomal apparatus. Workers in chemical industries (nitrogen, sulfur, etc.) have a significantly increased level of chromosomal aberrations in somatic cells’ (Makrushin, Makrushina & Plugatar, 2021: 404).

Moreover, tellingly, biologists note the cumulative danger of such harm. ‘One of the most dangerous environmental pollutants is mutagens – factors of a chemical, physical and biological nature that can damage both the structure and functioning of the hereditary material. The accumulation of induced mutations can lead to an increase in the frequency of hereditary diseases and oncological diseases, premature aging, and also cause serious health disorders’ (Tarasov, 1994: 3–6).

Thus, for the researcher, the problem of defining the boundaries of criminal-legal protection of relations for environmental protection from the point of view of criminal-legal assessment of environmental impacts, including the consequences arising as a result of such impact, is of unconditional interest.

At the same time, the researcher is aware that the issue of assessing the consequences rest in the sphere of interdisciplinary relations and depends on the competence of specialists of various scientific specialties, including biologists, into whose sphere of competence the researcher does not intend to intrude and has no grounds.

At the same time, the above review of the problem allows the researcher to form a well-founded hypothesis that environmental pollution with chemicals certainly affects in a negative way the genetic health of a person, while it is precisely the systematic, cumulative impact that is dangerous. At the same time, the degree of harmfulness of the consequences of such an impact requires an interdisciplinary approach and further study by specialists of different specialties. For example, will these consequences manifest themselves directly in this generation of humanity or will manifest themselves only in its descendants, moreover, maybe even only after several generations.

Materials and methods

General scientific and special legal methods were used during the research, including the formal legal method.

Results

Lopashenko N. A. rightly notes: ‘Part of public safety is environmental safety, which is the state of protection of two interrelated components: life and health of people from environmental threats and the natural environment from the negative impact of human life’ (Lopashenko, 2002: 31).

In the opinion of the researcher, this is the phenomenon of the characteristics of the species object of environmental crimes – this is a kind of protection of a person from the person himself.

Even in cases where the direct object of encroachment on some elements of environmental crimes is social relations associated with the protection of a particular type of living organisms, for example, Article 256 of the Criminal Code of the Russian Federation (illegal harvesting (catch) of aquatic biological resources), article 258 of the Criminal Code of the Russian Federation (illegal hunting), the strategic goal of legal regulation, in the opinion of the researcher, is to prevent the destruction of universal ecological relations that in their totality work to preserve a safe human environment.

The researcher does not have any doubts that the position that death, degeneration, degradation makes senseless further struggle for the preservation of other forms of life on Earth and the preservation of the human race in harmony with other forms of life on Earth, as well as with other components of the natural environment is the goal of the legal regulation by the norms of environmental law under the protection of criminal law norms.

Since the XX century the research has been carried out in the science of criminal law to identify a separate type of crime in the structure of criminal law that infringes on relations related to the protection of the (natural) environment and its components.

With the adoption of the Criminal Code of the Russian Federation of June 13, 1996 No. 63-FZ, which contained the corresponding chapter 26¹⁰, the concept of ‘environmental crimes’ acquired a legal definition as a group of criminal encroachments on homogeneous relations, in general, and referred to as public relations for the protection of environment or ecological relationship.

The general characteristics of the corpus delicti of environmental crimes allow us to say that almost all of these elements of crimes presuppose the presence of socially dangerous consequences from the impact on the environment. However, at the same time, such consequences differ in relation to specific elements of environmental crimes. The legislator uses evaluative definitions of criminal consequences in the structure of a number of corpus delicti of environmental crimes, such as, for example:

significant harm to human health or the environment (Article 247, Part 1 of the Criminal Code of the Russian Federation),

significant change in the radioactive background (Article 246 of the Criminal Code of the Russian Federation),

significant harm to the animal or plant world, fish stocks, forestry and agriculture (Article 250, Part 1 of the Criminal Code of the Russian Federation).

That is, we can conclude that using such legislative structures, the legislator, in fact, transfers to the mercy of the law enforcement officer in a number of cases the question of what impact on the environment should be recognized as socially dangerous, that is, criminally punishable.

Scientists recognize a certain difficulty in determining the results of environmental impact as criminal, falling under one or another corpus delicti of environmental crimes. For example, Lavygina I. V. points out that ‘the legislator, when formulating the consequences of environmental crimes, often uses evaluative categories, which does not always contribute to the improvement of the criminal law’ (Lavygina, 2005: 64).

This is certainly important for two reasons.

On the one hand, as we indicated above, the consequences of the results of human impact on the components of the natural environment are not fully studied. Herein, as we understand from the point of view of assessing the harm caused to human genetic health, even one-time impacts on the environment can pose a danger, if they are systematic and repetitive. Obviously, the legislator proceeded from the fact that the assessment of the consequences from the point of view of harm to the ecosystem in each specific case is individual and is determined taking into account specific circumstances.

On the other hand, the delivery of the right to determine criminal consequences to the mercy of the law enforcement officer can cause the opposite effect in the form of either an unjustified refusal by him to classify certain consequences of environmental impact as criminal or, conversely, make unjustified prosecution.

As the Constitutional Court of the Russian Federation noted in its legal positions, ‘the requirement of distinctness, clarity, unambiguousness of legal norms and their consistency in the system of general legal regulation acquires the special significance in relation to criminal legislation, which is by its legal nature

¹⁰ Chapter 26 of the Criminal Code of the Russian Federation (June 13, 1996 No. 63-FZ). Garant Database.

an extreme (exclusive) means by which the state reacts to the facts of unlawful behavior in order to protect public relations, if it cannot be ensured properly only with the help of legal norms of a different industry affiliation (Ruling of the Constitutional Court of the Russian Federation of July 10, 2003 No. 270-O). The principle of formal certainty of the law which implies the accuracy and clarity of legislative prescriptions, being an integral element of the rule of law, acts in both legislative and law enforcement activities as a necessary guarantee to ensure effective protection against arbitrary prosecution, conviction and punishment. Criminal liability can be considered legally established and meets the requirements of Article 55 (part 3) of the Constitution of the Russian Federation only on condition that it is adequate to the social danger of the crime and that the criminal law clearly and distinctly defines the signs of this crime, differentiating it from other unlawful, and even more so – from legal acts¹¹.

The qualification of criminal consequences in a number of elements of environmental crimes undoubtedly raises fair questions for the issue of the certainty of the norms of criminal law from the point of view of the criteria formed by the Constitutional Court of the Russian Federation.

So, the study of the structure of the crime under Part 1 of Article 251 of the Criminal Code of the Russian Federation, air pollution revealed similar issues in terms of the certainty of the norms of the criminal law in determining criminal consequences, as in those elements of environmental crimes where the definition of criminal consequences includes evaluative approach.

It is true to note here that the analysis of the structure of this element is important for the purposes of this study, since, as noted above, when analyzing the works of biologists, air pollution is one of the main ways of affecting human genetic health.

According to the disposition of Part 1 of Article 251 of the Criminal Code of the Russian Federation, a person is subject to criminal liability for air pollution by violating the rules for the emission of pollutants into the atmosphere or violation of the operation of installations, structures and other facilities if there is a mandatory sign – socially dangerous consequences in the form of pollution or other changes in the natural properties of air.

As follows from the Federal Law of May 4, 1999 No. 96-FZ ‘On the Protection of Atmospheric Air’¹², (hereinafter referred to as the Law on the Protection of Atmospheric Air) ‘air pollution is the entry of pollutants into the atmospheric air or the formation of pollutants in it in concentrations exceeding the hygienic and environmental standards for the quality of atmospheric air established by the state’¹³.

At first glance it seems that everything is clear for the law enforcement officer since the specified standards have been exceeded, which means there is a criminal consequence provided for by the corpus delicti under Part 1 of Article 251 of the Criminal Code of the Russian Federation.

However, according to the adjacent part 2 of article 8.21 of the Code of Administrative Offenses of the Russian Federation (hereinafter referred to as the Code of Administrative Offenses of the Russian Federation), an administratively punishable act is a violation of the conditions of a special permit for the emission of harmful substances into the atmospheric air or harmful physical impact on it¹⁴.

According to a formal legal interpretation, in the opinion of the researcher, these dispositions of offenses with contradictory types of liability in fact describe the same offense.

So, part 2 of article 8.21 of the Code of Administrative Offenses of the Russian Federation punishes for ‘violation of the conditions of a special permit for the emission of harmful substances’, which consists in exceeding the maximum permissible emissions of pollutants established by this special permit, during the production of such emissions, in accordance with the rules for emissions of harmful substances. That is, the structure of this offense presupposes the presence of consequences in the form of emission, that is, the entry into the atmospheric air of harmful substances that exceed the established standards, which, according to the definition given by the special Law on the Protection of Atmospheric Air, is recognized as atmospheric air pollution.

¹¹ Paragraph 1.2. of the clause 5.1 of the Judgement of the Constitutional Court of the Russian Federation of May 27, 2008 No. 8-P ‘In the Case of Checking the Constitutionality of the Provisions of Part One of Article 188 of the Criminal Code of the Russian Federation in Connection with the Complaint of Citizen M. A. Aslamazyan’. Garant Database.

¹² Federal Law No. 96-FZ of May 4, 1999 ‘On the Protection of Atmospheric Air’. Garant Database.

¹³ Article 1 of the Federal Law No. 96-FZ of May 4, 1999 ‘On the Protection of Atmospheric Air’. Garant Database.

¹⁴ Article 8.21 of the Code of Administrative Offenses of the Russian Federation (December 30, 2001 No. 195-FZ). Garant Database.

At the same time, the disposition of article 251, part 1 of the Criminal Code of the Russian Federation is blanket and refers to the same legal definition of atmospheric air pollution, according to the Law on the Protection of Atmospheric Air. This means that the criminal and legal consequences of a criminal violation of emission rules defined as air pollution, as well as an administrative violation, will be the emission of harmful substances into the air in excess of the established standards.

A similar position on the complexity of such a distinction is quite often found in the scientific literature. In particular, I.V. Popov notes that it is difficult to distinguish the consequences between these two *corpus delicti* 'since any illegal emission of substances into the atmosphere entails a priori pollution of the atmospheric air' (Popov, 2021: 135).

Under these circumstances, when both scientists and law enforcers have difficulties determining which type of environmental tort applies to the harmful effects to atmospheric air, the issue is extremely acute. In this case, we are not talking about the differentiation of related torts; we are talking about the fact that the provisions of the criminal law, namely Article 251, part 1 of the Criminal Code of the Russian Federation, do not meet the constitutional requirements of certainty, clarity, and unambiguousness of criminal legal norms. If the norm does not make it possible to clearly define in which case even a single act of impact on such a component of the natural environment as atmospheric air is criminalized, this indicates that it is an ineffective means of criminal law protection for the objects of crime, whether specific or as a class. This certainly cannot but have a negative impact on the state of genetic health of a person, which, of course, is influenced by the uncontrolled emission of pollutants into the atmosphere.

The doctrine of criminal law recognizes the concept according to which the only criterion for the criminal law prohibition of any act is its exclusively social danger.

In this regard, the questions that emerged in the course of the study regarding the qualification of the criminal consequences of environmental crimes, including their differentiation with the consequences of related environmental offenses, indicate not only the presence of theoretical and practical problems in the qualification of environmental crimes, but indicate the absence of clear criteria of public danger, which is unacceptable from the standpoint of the requirement of certainty, clarity, unambiguousness of criminal law norms.

Discussion

Without unduly criminalizing certain consequences of environmental impact, humankind must take responsibility for the fate of future generations, knowing that they will bear the consequences for choices made by their ancestors, that is, by us. And this, above all, concerns the genetic health of future generations.

On the one hand, from the point of view of the requirements of certainty, clarity, unambiguousness of criminal legal norms, we cannot consider socially dangerous those consequences, the degree of harm of which for society has not been fully clarified scientifically, which can be characterized as evaluative, debatable and conjectural. Shifting this burden on the law enforcement officer, by introducing evaluative categories or by artificially creating competition with other torts, in the opinion of the researcher, is a 'road to nowhere', since, as we can see from the example of judicial practice in criminal cases related to atmospheric air pollution on the grounds of Article 251 of the Criminal Procedure Code of the Russian Federation, such an approach can lead to an almost complete refusal to prosecute for these types of crimes, which, in fact, we are now observing.

On the other hand, even from that scope of objective scientific knowledge, it is clear that it is precisely the systematic pollution of natural components that is definitely harmful to the genetic health of both this and future generations.

In this regard, the researcher does not exclude that, in order to achieve these strategic goals, it is possible to revise some *corpus delicti* of environmental crimes. The researcher considers it appropriate to discuss the issue of the balanced use of evaluative categories when describing the consequences of environmental crimes. I believe that if the legislator cannot clearly define in the disposition of the criminal law norm those justified criteria according to which criminal punishment should follow for the impact on the components of the natural environment, such an act cannot be criminalized, and by the nature of the consequences that have occurred, such an act can be punished by the norms of the Code of Administrative Offenses, that is, it will only be an administrative offense.

However, not forgetting about the social danger of the systematic impact on the environment, the researcher brings up the question of the expediency of using the institution of administrative prejudice when the legislator forms some corpus delicti of environmental crimes.

Having criminal corpus delicti under Article 251 part 1 of the Criminal Code of the Russian Federation (air pollution) as an example, I would like to formulate a proposal that may help find a way out of the law enforcement deadlock blocking the formation of criminal liability for air pollution.

So, within the meaning of Part 1 of Article 251 of the Criminal Code of the Russian Federation, air pollution with harmful substances is a criminal offense at any value of excess of the standard indicator, regardless of the degree of consequences of such pollution. As stated earlier, at this point the public danger criterion is blurred and creates competition with the administrative offence stipulated in Part 2 of Article 8.21 of the Administrative Code, which also stipulates liability for emissions of harmful substances into the atmospheric air, and also for any value exceeding the standard indicator.

As a result, the law enforcement officer prefers a procedure of administrative responsibility that is simpler in application, but less effective in terms of consequences for the violator. We see that such a utilitarian choice has far-reaching consequences: the quality of atmospheric air deteriorates.

Scientists admit that one of the most controversial issues is the question of whether it is enough to prove unlawful air pollution in excess of the MPC to be prosecuted under Article 251 of the Criminal Code of the Russian Federation, or the perpetrator is liable only if the maximum permissible concentration of pollutants is repeatedly exceeded (Popov, 2021: 138).

At the same time, the concept of 'extremely high environmental pollution' is officially enshrined in the Temporary Regulation of June 23, 1995 No. 05-11/2507 on the procedure for interaction of federal executive bodies in case of emergency emissions and discharges of pollutants and extremely high environmental pollution. For example, this is the content of one or more substances that exceeds the maximum permissible concentration by 20–29 times while maintaining this level for more than 2 days.

Perhaps the enforcement of Article 251 of the Criminal Code of the Russian Federation in Part 1 will be more effective if, according to this provision, the perpetrators are subject to criminal liability exclusively for such extremely high air pollution, the public danger of which is obvious, and these consequences are clearly differentiated from administrative and legal consequences and do not cause fundamental difficulties for the law enforcement officer.

All other consequences of atmospheric air pollution will be referred to administrative responsibility. However, in order to minimize the consequences of systematic air pollution by such one-time impacts, the researcher considers it expedient to discuss the issue of introducing a new corpus delicti in the Criminal Code, secured by the structure of an administrative prejudice, providing for liability for violation of the rules for the emission of pollutants into the atmosphere or violation of the operation of installations, structures and other facilities if these acts resulted in pollution or other change in the natural properties of the air by a person subjected to administrative punishment for violations provided for in part 1–3 of article 8.21 of the Code of Administrative Offenses of the Russian Federation.

In the opinion of the researcher, such a design can reduce the systematic load of harmful substances on the atmospheric air and, ultimately, help to reduce the risk of harmful consequences for human genetic health.

Conclusion

The researcher comes to the following conclusions based on the results of this study. The researcher believes that environmental pollution certainly affects human genetic health in a negative way. At the same time, it is the systematic, cumulative impact that is dangerous, although the degree of harmfulness of the consequences of such impact requires an interdisciplinary approach and further study by specialists of different specialties.

In this connection, the effectiveness of the protective function of criminal law in the sphere of public relations that protect the environment as a whole and in terms of each of its components is undoubtedly important.

However, such efficiency can be talked about if the criminal liability is adequate to the social danger of the crime and that the criminal law clearly and distinctly defines the signs of this crime, differentiating it from other illegal and even more so – from legal acts.

Unfortunately, the norms of the criminal law protecting a species object – public relations in the sphere of environmental safety (environmental crimes) do not always correspond to these conditions.

The legislator should carefully approach the use of assessment categories when formulating the consequences of environmental crimes so that this does not cause difficulties in law enforcement. This is not always observed in *corpus delicti* of environmental crimes.

Special remarks regarding compliance with these conditions relate to the disposition of Article 251, Part 1 of the Criminal Code of the Russian Federation (Air Pollution), which is important for the subject of this study, since air pollution is one of the main ways of affecting human genetic health.

The researcher sees the problem in such a vein, from which it follows that the application of this norm in practice is significantly leveled by the presence of a related administrative *corpus delicti* – part 2 of article 8.21 of the Administrative Code of the Russian Federation, the structure of which also assumes the presence of consequences in the form of pollution, that is, entry of harmful substances into the atmospheric air exceeding the established standards, which are similar to the criminal consequences established by part 1 of article 251 of the Criminal Code of the Russian Federation.

The researcher believes that to enhance the effectiveness of the criminal law, the following issues should be considered:

1. Consider reducing the use of valuation categories when describing the consequences of environmental crimes. In the absence of clear criteria that would allow the consequences to be considered socially dangerous, consider transferring some violations to the administrative-legal level. At the same time, to minimize the systematic impact on the environment, which, in the event of changes to the criminal law, will already be referred to the category of administrative and legal torts, to discuss the feasibility of using the institution of administrative prejudice when the legislator forms certain *corpus delicti* of environmental crimes.

2. The researcher believes that, perhaps, the enforcement of Article 251 of the Criminal Code of the Russian Federation in Part 1 will be more effective if, according to this provision, those responsible are subject to criminal liability only for extremely high atmospheric air pollution.

All other consequences of atmospheric air pollution will be considered at the administrative level of responsibility. However, in order to minimize the consequences of systematic air pollution by one-time exposures, the researcher considers it expedient to consider introducing into the Criminal Code a new *corpus delicti* by designing an administrative prejudice that stipulates that a person subjected to an administrative penalty for violations provided for by parts 1–3 of article 8.21 of the Administrative Code of the Russian Federation is liable for violating rules regarding the emission of pollutants into the atmosphere or violating the operation of installations, structures and other facilities, if these acts have caused pollution or other change in the natural properties of the air.

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