

Some Legal Problems Concerning Implementation of Sustainable Use of Wildlife Concept in the Russian Federation

Niektóre problemy prawne dotyczące wdrażania koncepcji zrównoważonego użytkowania dzikiej przyrody w Federacji Rosyjskiej

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Abstract

The article offers a new perspective on the problems of sustainable use and conservation of wildlife in the context of the concept of sustainable development. The author proposes to depart from the approach currently existing in Russia to the sustainable use of wildlife, which includes measures to preserve and use only certain species of wild animals that are more economically relevant for human beings. The ways and means to realize the concept of sustainable development proposed by the author make it possible to ensure Russia's economic, environmental and social concerns, based upon the principle of relationship between different species of wild animals.

Key words: sustainable development, wildlife objects, balance of convenience, use of wildlife, hunting lands, local communities

Streszczenie

Artykuł przedstawia z nowej perspektywy problematykę zrównoważonego wykorzystywania i ochrony dzikiej przyrody w kontekście zrównoważonego rozwoju. Autorka proponuje odejście od obecnie istniejącego w Rosji podejścia do zrównoważonego wykorzystywania dzikiej fauny i flory, które obejmuje działania mające na celu zachowanie i wykorzystywanie tylko niektórych gatunków dzikich zwierząt, które są bardziej istotne ekonomicznie dla ludzi. Proponowane przez autorkę sposoby i środki realizacji koncepcji zrównoważonego rozwoju umożliwiają zapewnienie właściwego traktowania ekonomicznych, środowiskowych i społecznych problemów Rosji, w oparciu o zasadę wzajemnych relacji między różnymi gatunkami dzikich zwierząt.

Słowa kluczowe: zrównoważony rozwój, obiekty dzikiej przyrody, równowaga, wykorzystywanie dzikiej przyrody, tereny łowieckie, lokalne społeczności

Introduction

Environmental protection is one of the most important tasks of mankind. The need for the conservation and sustainable use of natural features has increased, especially in conditions of an annual increase in the rate of global production, which causes

significant environmental changes. The problem of sustainable use and conservation of fauna has always been in the focus of attention of the international community, since the extinction of certain species inevitably leads to global environmental problems, threatening the stability of all ecosystems of the Earth. According to the WWF *Living Planet Report*,

global populations of fish, birds, mammals, amphibians and reptiles have declined by 58 per cent since 1970. According to the latest research by WWF specialists, vertebrate populations are declining by an average of 2% each year.

There are no signs of a slowdown at the moment. If these trends continue, the number of populations will have declined by two thirds (67%) by 2020 (WWF's Living Planet Report, 2016). According to Marco Lambertini, the WWF International Director-General, wildlife disappears at an unprecedented rate – literally during the life of one generation. And the problem is not only that we are losing wonderful species of animals, which we love. Biological diversity is the foundation of the health of forests, rivers and oceans. If one destroys some part of the species, their habitats will be destroyed as well; this, in its turn, could result in a shortage of uncontaminated air, water, and food (Study: Humans to Wipe out Two-Thirds of Wildlife by 2020, 2016).

Therefore, at the present stage, the essential task of all the states is to establish international cooperation, solving the complex problem of preserving certain species of the animal world, their habitat, and also the whole biodiversity of natural ecological systems. Taking into account the scientific foundations of the country's economic and social development, there is a need to develop a long-term stable basis for the sustainable use of wildlife at the national level.

The current legislation of the Russian Federation on the animal world provides for a narrow approach to the regulation of sustainable use of wildlife, based on the development of a set of measures for the conservation and use of only certain species of wild animals that are of major economic importance to humans, for example, game animals. However, this fact contradicts the *Convention on Biological Diversity* norms aimed at conserving biodiversity.

The achieved balance between economic and environmental interests in the framework of sustainable use is the greatest one, regarding rare and being under threat of extinction species of fauna.

With respect to hunting resources and aquatic biological resources, there is clearly a priority of economic interest, which has a negative impact on the number of individual populations of wild animals. The sustainable use of wildlife objects, which are not referred to hunting and fishing resources, is not regulated by existing legislation at all, however, applying the correct and reasonable approach, environmental, economic and social interests can be balanced.

The analysis of theoretical and practical issues in the sphere of sustainable use of wildlife and identification of its sustainable development to be implemented in Russia is vitally important. This paper may be of interest to environmental lawyers who carry out comparative legal research on the conservation of wildlife, as well as to ordinary citizens who

are interested in problems and trends in the sustainable use of wildlife in Russia.

1. Theoretical Foundations for the Sustainable Use of Wildlife at the International and National Levels

The essence of sustainable use of wildlife objects consists in their use in accordance with the theory of sustainable development. For the first time in 1972, at the United Nations Conference *Man and the Environment* in Stockholm the concept of sustainable development was formulated, which allowed for the key possibility of effective economic activity with the mandatory condition of preventing damage to the environment. According to the United Nations World Commission on Environment and Development report *Our Common Future* dated August 4, 1987, sustainable development is a kind of development, which meets needs of the present without compromising the ability of future generations to meet their own needs. In line with this, economic development is to become increasingly neutral with respect to the environment; its impact should be kept to a minimum (Our Common Future, 1987).

The conceptual ideas of sustainable development were further developed at the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, where most countries of the world signed a number of programme documents defining some joint and coordinated policies for sustainable development and conservation of the Earth's ecosystem, including *Agenda 21*, which is a non-binding action plan of the United Nations with regard to sustainable development (Dikusar, 2007).

The next stage in developing provisions of sustainable development concept is related to the adoption of the *Johannesburg Declaration on Sustainable Development* in 2002, as well as the UN Conference *Rio + 20*. Their materials suggest that sustainable development is a balanced socio-economic development, carried out in compliance with environmental requirements and standards, taking into account the interests of the peoples of the modern world and the generations that will inherit the Earth. Within the Conference, two main issues were considered: building an environmentally oriented economy in the context of sustainable development and poverty eradication; strengthening of the organizational structure for sustainable development. As it was mentioned in the proceedings of the conference, if necessary measures to achieve an environmentally oriented economy were taken, this should be accompanied by increased management with some support from international organizations. This would improve the integration of the three components of sustainable development – economic, social and environmental one, lead to better coordination and management by the UN and contribute to achieving the goals of sustainable development (Horn, 2013).

However, to date, all the global environmental agreements signed have been based on the expectation that rich countries will provide new sources of financing to the poorer nations so that they could achieve these goals; yet that desire has not been fully achieved. The tension between developed and developing countries is still considerable, which follows from the history of colonialism, economic exploitation, military adventurism, nationalism, etc. Developing countries fear that their dreams of improving the quality of life will succumb to the global needs of the richer countries, facing significant environmental threats (Bryner, 2002). In this situation, taking into account the available opportunities and specific goals of the environmental, economic and social policy in the Russian Federation, a number of normative legal acts aimed at implementing the concept of sustainable development were adopted (Decree of the President of the Russian Federation No. 236, 1994 No. 236; Decree of the President of the Russian Federation No. 440, 1996; Decree of the Government of the Russian Federation No. 559, 1996). One of the priorities for implementing the strategy of sustainable development in the use of wildlife is the preservation of its biological diversity. Thus, the concept of sustainable development should be regarded as a methodological basis for the legal provision of sustainable use of wildlife as a natural object and a natural resource. According to Article 2 of the *Convention on Biological Diversity* dated 5 June 1992, sustainable use means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations (The United Nations Convention on Biological Diversity, 1992). At the national level, the Federal Law No. 52-FZ *On Wildlife* dated April 24, 1995, enshrines the concept of sustainable use of wildlife. In particular, it means the use of wildlife objects, which does not result in wildlife biodiversity depletion in the long run, and when the ability of animal world to reproduction and sustainability are preserved (Federal Law of the Russian Federation No. 52-FZ).

In order to achieve a balance between environmental, economic and social interests, the legislature has established the following criteria for the sustainable use of wildlife in the Russian Federation:

1. Sustainable use involves the use of wildlife objects in such a way that there is no excessive production resulting in the reduction in the number of individual populations of wild animals (precautionary approach). The purpose of implementing this criterion is to establish limit values for wildlife harvest.
2. The criterion of minimum impact on the environment means that the use of wildlife should not destroy the structure and reduce the productivity and diversity of ecosystems within which

wildlife objects exist. The implementation of criteria lies in the management of wildlife use on the basis of the ecosystem approach, taking into account its impact on ecosystems and minimizing possible damage.

3. Effective public administration criterion. Animal world is the object of public administration, which should meet international and national standards and be implemented within the framework of responsible and sustainable use of wildlife objects. One should create the necessary conditions for implementing precautionary and ecosystem criteria.

Thus, sustainable use is the use of fauna, which can last for a long period of time; it is aimed at the conservation of ecosystems; maintains biological diversity, as well as the functioning of those ecosystems on which it depends, seeking to minimize damage from its anthropogenic impact; sustainable use should comply with the norms of international and national legislation in the sphere of sustainable development and use of biological diversity; creating opportunities for economic and social development. The analysis of the criteria and attributes of sustainable use of wildlife suggests that the main attention is to be paid to finding the balance between ecological, economic and social interests of business, society and the state.

For a long time, a special category called *the rational use of the animal world* was used in the legislation on fauna. The concept of *rational nature management* is now widespread in the Russian scientific literature on environmental law (Petrov, 1995; Yerofeev, 1996).

Thus, S.A. Bogolyubov believes that the rationalism of nature management means constant maintenance of such a state when optimal reproduction of natural resources is possible with no irreversible effects on the environment (Bogolyubov, 1998). The recognition of the need to ensure the priority of nature management environmental aspect by legal means, as well as developing appropriate legal forms to ensure the registration and implementation of environmental requirements when planning and implementing economic and other environmentally significant activities, have become the key moments in the interpretation of the rational nature management principle (Makhrova, 1999). Thus, the essence of rational use of fauna is to ensure the balance of economic and environmental interests of citizens, business and the state.

However, in order to practically implement the concept of sustainable development in the context of sustainable use of fauna, it is necessary to provide a combination of not only ecological and economic interests, but also social interests. For this purpose, the concept of *sustainable use of wildlife* was established in the animal welfare legislation.

However, the social criterion of sustainable development was not included into the contents of this con-

cept. In the scientific doctrine the social criterion of sustainable use is not always allocated. Thus, according to I.B. Kalinin, sustainable use is considered as a model in which the rational use of natural resources is intrinsically linked to the protection of the environment (Kalinin, 2003). In such cases, since there are a number of conceptual and terminological ambiguities related to the term *sustainable use*, it is advisable to revise the baseline and actions for this concept. Also, these ambiguities develop fast and should be cleared up.

So, we can conclude that, on the one hand, existing *Fauna Acts of the Russian Federation* have adopted the theory of sustainable development and legally established the concept of *sustainable use*. On the other hand, it is necessary to clearly distinguish between the category of *sustainable use of wildlife*, the content of which implies the search for a balance of interests between the economic, environmental and social interests of citizens, business and the state, and the category of *rational use of wildlife*, which is a combination of environmental and economic interests only.

2. Implementation of the Concept of Sustainable Use in Russia Regarding Various Wildlife Objects

Wildlife is one of the main elements of the environment, being the object of its use and protection. It includes the entire diversity of wild terrestrial and aquatic fauna involved in various relationships of living nature. According to the stated purpose, fauna can be divided into the following categories: rare and endangered species; animal species which are objects of hunting and fishing; other animal species which are not related to objects of hunting and fishing (Federal Law of the Russian Federation No. 52-FZ, 1995). With the sustainable use of wildlife, the *three-pronged goal of sustainable development – the potential of biodiversity has been preserved, economic benefits have been gained and social and cultural issues have been tackled* (Medvedev, 2010). Thus, in the process of sustainable use of wildlife objects, ecological, economic and social interests of citizens, society and the state are to be fit together. Rare and endangered animal species play an important role in various ecosystems, and are *indicators for the state of natural ecosystems* (State Report, 2014). Their use is carried out alongside with taking out from habitat or without it. Taking out of such animal species is carried out in strictly defined circumstances, on the basis of a permit issued by a specially authorized executive authority in the field of wildlife use (The Federal Supervisory Natural Resources Management Service (Rosprirodnadzor) (Decree of the Government of the Russian Federation No. 13, 1997).

The sustainable use of rare and endangered animal species without taking them from habitat is carried

out through various forms of observation, tagging, photographing and other research methods, if these methods do not harm the animal world or its habitat and do not violate the rights of users of wildlife and other natural resources, as well as the rights of landowners, ground landlords, land users, except those cases when such use is prohibited.

In certain cases, it is forbidden even to photograph rare or endangered animals, approach them at a short distance, since such actions could negatively affect animals, force them to change their habitat, which sometimes could result in their death. In order to implement the ecological criterion for the sustainable use of rare and endangered species, specially protected natural areas (hereinafter referred to as SPNA) have been established. The system of specially protected natural areas of the federal, regional and local significance in the Russian Federation *has created the necessary basis for the conservation of key habitats for rare and endangered animal species, plants and fungi, as well as institutional environment for the development of scientific research and targeted environmental and education programs* (Russian Federation Government Resolution No. 212-p, 2014).

Striking a balance between economic and social interests, while using rare, endangered animal species in protected areas, is carried out through the organization of environmental tourism. To date, ecotourism, being one of the most promising and rapidly developing sectors of the tourism industry, occupies one of their leading positions. According to many experts, ecotourism accounts for more than 10-20% of profits from the entire tourist market (Anisimov, Ryzhenkov, 2014).

Revenues from ecotourism are used for funding activities to conserve wild animals and restore their number. Russia is a huge country, with its unique nature monuments, priceless national reserves and outstanding potential tourist sites, but it still does not rank first among countries specializing in ecological tourism.

The following shortcoming has been identified: in Russia, unlike with other, worth to be looked up to countries, no form of tourism has been commendably developed. The main problem is the lack of motivation, desire and good financing. In the modern world, people have learned to sell the most insane and, in fact, unremarkable objects.

In this case, nothing needs to be invented in Russia; one should only define priorities in the promotion of tourist facilities, for instance, ecological natural areas. There are examples of underdeveloped countries, such as Kenya, Tanzania, Belize, Ecuador, Laos, and Nepal, which enjoy popularity with ecotourists (Lapochkina, Kosareva, Adashova, 2016). For example, in South Africa, 90% of the 1,052,000 tourists registered in the country have visited national parks and generated an economic flow of \$ 13 million. In Tanzania, ecotourism brings a global in-

come of about \$ 570 million a year (Chardonnet, Clers, Fischer, Gerhold, Jori, Lamarque, 2002). Thus, wild animals have become the basis and support of the tourism industry. In Russia, it is necessary to take into account the experience of other countries in the field of ecological tourism. It should be noted that in some regions of the Russian Federation there is already a trend towards the development of ecotourism. For instance, in the Orenburg State Nature Reserve (Orenburgskij Conservancy Area, 2018), within the framework of ecological tourism, services are provided in the form of ecological tours, during which one can observe wild animals. Such tours comply with measures to conserve rare and endangered animal species. At the same time, users of wildlife objects transfer a certain amount of money to the account of the institution (Nature Reserve) for services rendered. Those sums will be used to finance measures to conserve rare, endangered species and restore their number in the future. Undoubtedly, the economic profit from ecotourism in the Orenburg Reserve is small, but there is a positive trend. Simultaneously with the development of infrastructure within the framework of ecotourism, the social interest of local residents is realized, they are provided with jobs. If wildlife could be managed so that *local people could receive substantial material benefits from this, they would most likely to cooperate with travel agencies and implement measures to protect the environment* (Anisimov, Ryzhenkov, 2013).

Thus, the development of ecotourism in Russia provides a balance of environmental, economic and social interests of citizens and the state in the implementation of the concept of sustainable development with regard to rare, endangered animal species. Ecotourism provides additional income and an incentive for the sustainable use of wildlife objects, since all activities and services carried out within the framework of ecotourism should be conducted on a sustainable basis, so as not to result in excessive harm to rare, endangered animal species and damage to their habitats from excessive use and pollution.

Hunting resources can be called the second category in the range of animal life. A natural resource is a part of natural objects used by a person to satisfy their needs (Federal Law No. 7-FZ, 2002). *A human starts being concerned with the objects of nature only when those objects create benefits, material welfare or spiritual assets* (Stainov, 1974). In this case, animal life as a natural resource is not formed by all the wild animals that are in a state of natural freedom, but only by those that are used by men to meet their needs. In this regard, due to economic importance, in order to address state and public interests, the legislature pays special attention to the legal regulation of relations for the conservation and use of hunting resources.

Taking into account the value of environmental conservation, which forms one of the most important foundations of the constitutional system of the Rus-

sian Federation and being viewed by the international community as a common task for the whole mankind, legal regulation in the field of harvesting and conservation of hunting resources should be implemented through the universal nature protection function. The ecological criterion of sustainable development is realized through standards for the withdrawal of hunting resources, the assignment of hunting providers' duties to conduct biotechnological activities, the prevention of loss of hunting resources as a result of agricultural and other activities, and the regulation of the number of hunting resources.

On the one hand, the values for wildlife harvest have been established to satisfy economic needs in hunting resources, and, on the other hand, to prevent from their depletion. Taking into account ecological, social and economic factors, the principle of determining the amount of hunting resource production *is aimed at ensuring the rational use of hunting resources and biodiversity conservation; it is also implemented by a number of legal means, including the establishment of limits and quotas for the hunting resources. Simultaneously with the implementation of the ecological criterion for sustainable development, legal regulation in the sphere of hunting should be aimed at ensuring a guarantee of the balance between economic and social interests of the subjects regarding the use of hunting resources. The economic criterion for the sustainable use of hunting resources is realized through the collection of payments for the use of hunting resources, in particular, fees for the use of wildlife objects* (Voliansky, 2014). In wildlife legislation and tax legislation, a system of payments for the use of hunting resources was developed: the state duty for obtaining permit forms to harvest wildlife objects by legal entities and individual entrepreneurs, and for obtaining the permits by citizens themselves; the rate of the fee for the use of wildlife objects, established in accordance with the *Tax Code of the Russian Federation*.

Thus, it can be noted that in the Russian wildlife legislation, a mechanism for the implementation of ecological and economic criteria for the sustainable use of hunting resources has been developed in detail. However, within the framework of sustainable use of hunting resources, it is also necessary to provide a social criterion. Local residents have been engaged in hunting, fishing and fur trapping for centuries. Therefore, it is very important to take into account the interests of the local population within the framework of sustainable use in order to meet their material and spiritual needs. In accordance with Article 2 of the Federal Law No. 209-FZ *On Hunting and Conservation of Hunting Resources and on Amending Certain Legislative Acts of the Russian Federation*, dated June 24, 2009, one of the principles of legal regulation in the field of harvesting and conservation of hunting resources is the participation of citizens and public associations in the preparation of decisions relating to hunting resources and their hab-

itat, but the subsequent norms of this law did not reflect specific forms and mechanisms of such participation. This principle presupposes the participation of citizens and public associations in the preparation of decisions relating to use, protection, reproduction of the relevant natural resources in the manner and forms established by the legislation of Russia. However, the specific forms, mechanisms and procedures for public participation in the legislation have not yet been determined.

The declared principle, reflecting the social component of sustainable use, is not implemented in special legislation. For instance, the Federal Law No. 209-FZ *On Hunting and Conservation of Hunting Resources and on Amending Certain Legislative Acts of the Russian Federation* of July 24, 2009 does not fix the priority right of local residents to purchase permits to harvest wildlife within designated hunting grounds; hunting agreements are concluded without coordinating the opinions of local residents (Federal Law No. 209-FZ, 2009). The declarative nature of the principle under consideration is also confirmed by judicial practice. Thus, Chukhloma District Court (Kostroma Region) rejected the claim for coercion in issuing a permit to harvest wildlife. The plaintiff, substantiating their claims, referred to paragraph 10.2.4 of the hunting agreement of February 20, 2012, according to which *Drew-Stroi LLC* was obliged to use hunting resources, taking into account the interests of the local population; accordingly local residents could receive permits for hunting at preferential rates. The court considered such demands of the plaintiff to be groundless, since they were not based on the law (Decision of the Supreme Court of Arbitration of the Russian Federation № VAS-5244/12, 2012). The court considered such demands of the plaintiff to be groundless, since they were not based on the law. Legal literature aptly points out that specific implementation of the provisions on the participation of citizens in governance, exercise of their rights to truthful information, it is necessary to create a *head regional public institution, designed to coordinate public participation in solving environmental and legal issues and participation in environmental management and environmental protection* (Kharkov, 2015).

Thus, the analysis of the current legislation on wildlife indicates that there is a tendency to maintain a balance between environmental and economic interests in the sustainable use of hunting resources in Russia, which meets the criteria of the *rational use* category without guaranteeing the realization of the social interests for the local population in this sphere of relations.

The third group of objects of the animal world consists of wild animals that do not belong to the objects of hunting and fishing. In particular, this group includes animal species used for the purpose of *extracting useful properties of wildlife objects' life-sustaining activity – soil-formers, natural environ-*

mental sanitation, plant pollinators, filter-feeding animals and others; study, research and other use of wildlife in scientific, cultural, educational, recreational, and aesthetic purposes without their taking out from habitat; extracting useful properties of wildlife objects' life-sustaining activity – soil-formers, natural environmental sanitation, plant pollinators, filter-feeding animals and others; obtaining fauna products (Federal Law of the Russian Federation No. 52-FZ, 1995). Wild animals not classified as objects of hunting and fishing do not have any economic significance for humans. However, they are essential elements of biodiversity in ecosystems. Each species of wild animals fulfills their roles and function to maintain balance of nature.

Thus, birds not classified as objects of hunting, are numerous, and perform an important ecological function. For instance, *the cuckoo mainly eats harmful caterpillars of some butterflies. For other birds these caterpillars are inedible and poisonous. The cuckoo also destroys them in huge quantities, up to 1,000 caterpillars and more per day* (Federal Law of the Russian Federation No. 52-FZ, 1995).

Great benefit is brought by wild bees. They are excellent pollinators of many plants. According to O.S. Kolbasov, *at the present level of interaction of society with the surrounding nature and with the current state of legal regulation, living organisms do not always act in relation to society and are perceived by the society as independent material objects. In certain cases and at certain stages of the life cycle, they exist as organically indivisible components of other elements of the natural environment and other living organisms* (Kolbasov, 1980).

The procedure for the harvesting wildlife objects that are not referred to the objects of hunting and fishing is determined by the Federal Law *On Wildlife*, other laws and normative legal acts of the Russian Federation, as well as laws and other regulatory legal acts of the subjects of the Russian Federation. The procedure for the harvesting wildlife objects that are not referred to the objects of hunting and fishing is determined by the Federal Law *On Wildlife*, other laws and normative legal acts of the Russian Federation, as well as laws and other regulatory legal acts of the subjects of the Russian Federation. It should be noted that in a number of constituent entities of the Russian Federation, regulatory legal acts, which are aimed at regulating relations arising from the implementation of activities related to the use and extraction of wildlife objects not classified as hunting resources and aquatic biological resources, have been adopted (Decree of the Government of the Arkhangelsk Region No. 494-pp, 2013; Decree of the Government of the Rostov Region № 419, 2015).

Such regulatory legal acts approve a list of wildlife objects that are not classified as hunting resources, permitted to be harvested on the territory of the relevant subject of the Russian Federation, which serves as the basis for issuing permits for their harvesting.

However, not all the constituent entities of the Russian Federation have adopted such regulatory legal acts; for example, in the Orenburg region those acts have been adopted, but do not contain a list of wildlife objects not classified as hunting resources, as it happened in the Perm Krai (Law of the Perm Territory No. 154-PC, 2012). The absence of a list of wildlife objects not classified as hunting resources leads to the fact that their harvesting takes place without permits and without payment for the use of wildlife objects.

Thus, in some constituent entities of the Russian Federation, there is a gap in the wildlife legislation regarding the sustainable use of wildlife not classified as objects of hunting and fishing, and as a result, there is no mechanism for implementing the concept of sustainable development on these territories to balance the interests of local population, business and protection of nature.

3. Peculiarities of the Implementation of Sustainable Use of Wildlife Concept on the Territories of Traditional Nature Management by Indigenous Minorities of the North and their Communities

In accordance with international law, all states have the sovereign right to dispose of their own natural resources in accordance with their own policies in the field of environmental protection. States are responsible for ensuring that activities under their jurisdiction or control do not cause significant damage to the environment of other States or areas beyond national jurisdiction. States are responsible for the rational, sustainable and safe use of natural resources, including natural resources exclusively in their own territory or in jurisdictions, in order to promote the development of their peoples, with particular attention to the rights of indigenous peoples, as well as the conservation and sustainable use of natural resources, protection of the environment, including ecosystems.

Among the subjects that have a special legal status in the use of wildlife, are those belonging to indigenous small-numbered peoples and ethnic communities. The existence of legislation on indigenous minorities is the official recognition of the special status of these peoples by the state (Kryazhkov, 2012). The rights of indigenous peoples are provided in Article 69 of the *Constitution of the Russian Federation*, and were developed in a number of normative legal acts at the federal and regional levels (Federal Law No. 82-FZ, 1999). The list of small indigenous peoples of the North, Siberia and the Far East is approved by the *Order of the Government of the Russian Federation* (Order of the Government of the Russian Federation No. 536-p, 2006). This category of citizens, along with the general rights of citizens for the protection and use of wildlife, has special

rights. For example, they have the right to use traditional methods of harvesting wildlife objects and their by-products. This right can be exercised by these citizens both individually and collectively, by means of creating associations on a different basis (family, clan communities, etc.) (Order of the Government of the Russian Federation No. 536-p, 2006). Indigenous peoples and ethnic communities, citizens and their associations have the right to priority use of wildlife in the territories of their traditional settlement and economic activities. For example, they have the right to harvest wildlife objects throughout the calendar year, and not only the hunting season.

In accordance with the Federal Law No. 82-FZ *On Guarantees of the Rights for Small Indigenous Peoples of the Russian Federation* dated April 30, 1999, the basic rights of indigenous small peoples include the uncompensated use of land plots; provision of priority access to fishing areas and hunting grounds; obtaining tax benefits, obtaining limits on the use of wildlife objects and fishing quotas for aquatic biological resources. Taking into account the balance between environmental, economic and social interests, indigenous peoples' rights in the context of wildlife use should be implemented in practice. Traditionally focusing on the sustainable development of indigenous peoples of the North, the Russian Federation took an active part in the *International Decade of the World's Indigenous People*, proclaimed by the UN General Assembly in December 1994 (Order of the Government of the Russian Federation № 132-p, 2009). The sustainable development of small-numbered peoples presupposes the strengthening of the socio-economic potential, the preservation of the original habitat, the traditional way of life and cultural values on the basis of state support and the *mobilization of the internal resources of the peoples themselves* for the benefit of present and future generations (Toria, 2016). Currently, for many representatives of indigenous peoples hunting is the main type of traditional nature management and the only way of earning a living.

While carrying out traditional nature management, indigenous small peoples take measures to preserve the animal world, increase the number of wildlife objects, and take measures to preserve the habitat. The Federal Law *On Hunting and on the Preservation of Hunting Resources and on Amending Certain Legislative Acts of the Russian Federation* defines conditions for hunting in order to ensure the traditional way of life and the traditional economic activities of indigenous small peoples. So, in accordance with Article 19 of this law, hunting for the purpose of maintaining traditional lifestyles and carrying out traditional activities is carried out freely (without any permission) in an amount of harvesting hunting resources for personal consumption. Free, without permission, harvesting for personal consumption is allowed only in public places. For the same pur-

poses, hunting in hunting grounds is permitted only with the consent of the hunting provider, with a license and for a fixed fee.

Thus, one of the key moments in the implementation of the wildlife sustainable use concept regarding indigenous small peoples is their exemption from payments for the use of wildlife objects. At the same time, the current legislation does not disclose the notion of *for personal consumption*. Everyone can interpret this category in their own way, adding various circumstances into it. Thus, for some small nations, the concept of *for personal consumption* means replenishing the summer diet with meat at a time when slaughtering of reindeer is not carried out. In the Khabarovsk Territory, the salmon fishing quota for indigenous people is 100 kilograms per member of a large family and this is enough for nourishment. But on Sakhalin in 2017 the salmon production rate was increased to three hundred kilograms. By personal consumption (consumption) here not only food is meant, but also the sale or exchange of fish to meet other needs. For other small peoples (the Ewenkis, Evens), personal consumption includes a whole system of their livelihood based on hunting. Thus, it is possible to include economic, non-economic and own factors for the formation of needs that are specific for a particular individual or community into this concept. Proceeding from the different understanding of the term *for personal consumption*, the amount of harvesting hunting resources for these purposes differs as well. For a uniform understanding and interpretation of this category, it is necessary to consolidate the concept of *for personal consumption* in the law and to determine the norms for calculating the amount of hunting resources that will allow preserving and ensuring the restoration of the number of wildlife objects and will contribute to the balance of environmental and economic interests.

One of the most important issues for small indigenous peoples is the issue of concluding hunting agreements. According to paragraph 3 of Article 71 of the Federal Law *On Hunting and Conservation of Hunting Resources and on Amending Certain Legislative Acts of the Russian Federation*, legal entities, which have the right of early use of wildlife objects on the basis of long-term licenses issued prior to the date of entry into force of the above-mentioned Federal Law, may extend their hunting agreements without conducting auction for the right to enter into a hunting agreement. This right extends to the communities of small indigenous peoples. However, the same law provides that when concluding a hunting agreement it is necessary to pay a one-time fee. The rates for calculating a one-time fee are established by the Decree of the Government of the Russian Federation No. 490 *On the Charge Rates for a Unit of Hunting Area during the Conclusion of Hunting Agreements without Holding an Auction for the Right to Conclude Hunting Agreements* dated June

30, 2010, for each subject of the Russian Federation. In accordance with the *Resolution of the Government*, each constituent entity of the Russian Federation establishes its own rate. For example, in Primorsky Territory the rate for 1 hectare of land is set at 10 rubles, in the Khabarovsk Territory – at 1 ruble, in Buryatia – at 5 rubles. This means that if the community of small peoples in the Primorsky Territory uses 820,000 hectares of land, then the community is obliged to pay a one-time fee of 8 million 200 thousand rubles. This is a payment for the change in the hunting agreement. Because of the high amount of payment, many communities will not be able to contribute such amounts and will have no hunting grounds.

According to the contents of Article 71 of the Federal Law *On Hunting and Conservation of Hunting Resources and on Amending Certain Legislative Acts of the Russian Federation*, dated July 24, 2009, payment upon conclusion of a hunting agreement is a compensation for additional state expenses incurred in the interests of the payer. *Therefore, the payment should not be higher than the organizational and other costs associated with the conclusion of the hunting agreement* (Decision of the Supreme Court of Arbitration of the Russian Federation № VAS-5244/12, 2012). Payment in the amount of 8 million 200 thousand rubles cannot be considered commensurate with the costs of public authorities to formalize the agreement. It should be noted that the *Resolution of the Government of the Russian Federation No. 490* under consideration was challenged in courts.

The Supreme Arbitration Court of the Russian Federation considered the applications of the public organization of hunters and fishermen *Sidatum* from the Krasnoarmeysky district, the limited liability company *Krasnoarmeysky Raizagotohotoprom*, the public organization of hunters and fishermen *Vostochny Bereg* to the Government of the Russian Federation on recognizing the Decree of 30.06.2010 No. 490 *On the Charge Rates for a Unit of Hunting Area during the Conclusion of Hunting Agreements without Holding an Auction for the Right to Conclude Hunting Agreements* in the part that establishes a single rate for the whole territory of the Primorsky Territory in the amount of 10 rubles per 1 ha of hunting grounds as not compliant with a number of normative legal acts.

Refusing to satisfy the application, the court proceeded from the fact that the rate of payment established by the impugned act for the northern territories of the region is 10 times higher than the rate foreseen by the same act for adjacent areas of the neighboring area. This charge rate is not economically unjustified, does not violate the applicants' rights and does not impose on them the obligation to pay a compulsory fee in an overcharge (Decision of the Supreme Court of Arbitration of the Russian Federation № VAS-5244/12, 2012). Thus, there is a situation in

which, on the one hand, the legislator grants the right to communities of indigenous peoples to conclude a hunting agreement without holding an auction, and, on the other hand, introduces the obligation to pay a lump sum. And the subjects cannot fulfill this obligation because of the incredibly high amount of payment. As a result, communities are forced to refuse to enter into agreements.

It seems that such an approach by the legislator to introduce a one-time fee for small nations is not acceptable, since in many cases traditional nature management is conducted by peoples in order to preserve their livelihood and does not pursue profit-making. In order to support indigenous peoples in the field of traditional nature management, it is necessary to remove from the list of entities obliged to pay a one-time fee in the process of concluding a hunting agreement the following subjects: the communities of small-numbered indigenous peoples and individual entrepreneurs from among indigenous peoples. This fact will guarantee the social aspect in the framework of sustainable use of wildlife objects to meet the vital needs of small peoples of the Russian Federation.

Thus, in the process of realizing the concept of sustainable use of wildlife, small-numbered indigenous peoples and their communities cannot fully exercise their rights, since many legal norms are declarative and contradictory ones, containing a number of gaps and collisions. This results in the infringement of the rights of some individuals, abuse of these rights by other persons, the possibility of applying provisions containing vague, difficult to meet requirements by small indigenous peoples, and, ultimately, a violation of the balance between environmental, economic and social interests.

Conclusion

The above-mentioned suggestion to look at the use and protection of wildlife objects through the prism of sustainable development and create a system for finding a balance between economic, environmental and social interests is aimed at solving a number of theoretical and practical problems in the sphere of sustainable use of wildlife. In this case, we talk about the development of a mechanism for implementing the criteria for sustainable development regarding all wildlife objects in the territory of the Russian Federation.

These criteria require further development by incorporating social indicators of sustainable development into them, which would allow one to move from a strategy of ensuring the rational use of wildlife that focuses only on finding a balance between environmental and economic interests and implementing the concept of sustainable development in the use of wildlife. This would help to find the necessary balance of interests for the local population, business and nature protection.

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