
ЗЕМЕЛЬНОЕ ПРАВО; ПРИРОДОРЕСУРСНОЕ ПРАВО; ЭКОЛОГИЧЕСКОЕ ПРАВО; АГРАРНОЕ ПРАВО

LAND LAW; NATURAL RESOURCES LAW; ENVIRONMENTAL LAW; AGRICULTURAL LAW

Научная статья

УДК 341

DOI 10.33184/vest-law-bsu-2022.16.8

Ibatullina Natalya Sergeevna

Ufa University of Science and Technologies, Ufa, Russia, talka@list.ru

LEGAL PROTECTION OF THE ENVIRONMENT FROM POLLUTION BY SOLID MUNICIPAL WASTE

Abstract. The steady increase in municipal waste is one of the most important environmental problems to be addressed immediately, as unused and uncleaned waste is deposited and accumulated in the environment, causing significant environmental damage, including the health of citizens. In Bashkortostan, as well as throughout the country, there is an increase in the annual volume of solid municipal waste formation, which currently amounts to about 1.5 million tons in the republic. The upward trend in solid municipal waste formation continues. The article reveals and describes the problems of the republic, connected with the main ways of utilization of solid municipal waste, which is mainly burial of waste. Waste should be considered as a source of secondary raw material. The author provides the main legal sources in the field of solid household waste management in the republic, in particular, and in the Russian Federation in general, as well as examples of judicial practice in the republic of Bashkortostan. It seems necessary to develop approaches to waste management, in which the main criteria: environmental safety and recycling efficiency should be taken into account. Solutions to the identified problems are the construction of accommodation and processing facilities, financial state support, improvement of the legal framework in this area, as well as raising the level of awareness of citizens in the field of waste sorting and recycling.

Keywords: solid municipal waste, disposal, recycling, landfills, waste management plant

For citation: Ibatullina N.S. Legal Protection of the Environment from Pollution by Solid Municipal Waste. *Vestnik Instituta prava Bashkirskogo gosudarstvennogo universiteta* = *Bulletin of the Institute of Law of the Bashkir State University*, 2022, no. 4, pp. 61–69. DOI 10.33184/vest-law-bsu-2022.16.8. (In Russian).

Ибатуллина Наталья Сергеевна

Уфимский университет науки и технологий, Уфа, Россия, talka@list.ru

ПРАВОВАЯ ОХРАНА ОКРУЖАЮЩЕЙ СРЕДЫ ОТ ЗАГРЯЗНЕНИЯ ТВЕРДЫМИ КОММУНАЛЬНЫМИ ОТХОДАМИ

Аннотация. Постоянный рост количества коммунальных отходов – одна из важнейших экологических проблем, требующая незамедлительного решения, поскольку неиспользованные и необезвреженные отходы накапливаются в окружающей среде, нанося значительный урон экологии и здоровью граждан. Эта проблема касается и Республики Башкортостан, где уже скопилось около 1,5 миллионов тонн не утилизированных коммунальных отходов. Автор приводит основные правовые источники в области управления твердыми бытовыми отходами, а также примеры республиканской судебной практики. Видится необходимость разработки подходов к утилизации отходов, при которой должны быть учтены основные критерии: экологическая безопасность и эффективность переработки. Решениями выделенной проблемы являются строительство объектов размещения и переработки твердых коммунальных отходов, финансовая государственная поддержка, совершенствование правовой базы в данной сфере, повышение уровня осведомленности граждан в сфере сортировки и утилизации отходов.

Ключевые слова: твердые коммунальные отходы, захоронение, утилизация, переработка, свалки, полигоны, мусороперерабатывающий завод

Для цитирования: Ибатуллина Н.С. Правовая охрана окружающей среды от загрязнения твердыми коммунальными отходами / Н.С. Ибатуллина // Вестник Института права Башкирского государственного университета. – 2022. – № 4. – С. 61–69. DOI 10.33184/vest-law-bsu-2022.16.8.

Solid municipal waste is waste generated in residential premises by the consumption of individuals, as well as goods that have lost their consumer properties during their use by individuals in residential premises for personal and domestic needs. Solid municipal waste also includes waste generated by legal entities, individual entrepreneurs and similar by the composition of waste generated in residential buildings during consumption by individuals (V.N. Azarov, V.A. Gra-

chev etc.). In most countries around the world, especially developed ones, a unified system exists for disposal, which allows each component to be deposited or recycled.

Solving the problems associated with the continuous increase in the amount of municipal waste is one of the most important tasks for Russian cities. Environmental safety and recycling efficiency should be the main criteria in developing waste management approaches. Currently, there is a tense situation in the republic of Bashkortostan with the placement and disposal of solid municipal waste. Unused and uncleared waste enters and accumulates in the environment. Annual volume of solid municipal waste formation in Bashkortostan is constantly growing and makes about 2 million tons. There is an annual increase in the generation of consumer waste by 10 %. On average, one inhabitant of the republic has about 250–300 kilograms of solid waste. The growth trend in waste generation will continue.

The generation of waste and its accumulation pose a serious environmental threat to the republic. The negative impact of landfills is also reflected in increased morbidity and mortality of the citizens. Bashkortostan system of solid municipal wastes handling is mainly based on landfills. In addition, there are a huge number of spontaneous landfills in the cities and especially in the regions. On the territory of the republic there are about three thousand landfills of solid municipal waste, which occupy a total area of more than two thousand hectares of land. Almost every settlement has one or more landfills of solid municipal wastes. Most of them do not comply with the requirements of environmental legislation (no land allocation documents, no basic environmental installations, no environmental monitoring). Household, industrial, construction and other wastes are exported there. Most rural sites are not covered by waste collection, transportation and disposal. No remediation work is carried out at the decommissioned landfills.

The republican target programme «Improvement of the system of solid waste management in the Republic of Bashkortostan» for 2011–2020 was approved by the Government of the republic of Bashkortostan in 2011. The programme provides financing of activities in the amount of 2.5 billion rubles from the local budgets. This in fact questions the implementation of the programme, since basically all rural areas of the republic are subsidized and do not have such means. «At present, the entire burden of the direct provision of environmental safety in the treatment of waste falls (according to the current legislation) on the local self-government bodies» [1, c. 170].

There are no funds for the exercise of these powers. So the supervisory authorities demand, issue regulations, and, as a result, impose fines on district and village leaders. There is a vicious circle because there are responsible people al-

though there is no money. As a result, the problem is not solved. In our view, it is necessary to review the concept of the programme as a whole. First of all, to undertake the activities, it needs to identify the real sources of financing, with the development of real economic mechanisms to stimulate the implementation of the activities included in the programme. Today more than ever, strong state support in this matter is required to give impetus to this work.

Waste should be considered not only as a source of environmental pollution and human exposure, but also as a source of secondary resources. In this regard, the shift from landfill to secondary feedstock should be a priority for waste management. In the republic, the level of waste use is very low, on average 3 % of the total annual volume. Only highly liquid and profitable wastes, mainly ferrous and non-ferrous metal scrap and waste, polymeric materials, high-grade waste paper, clean textiles and wood waste, are brought into the economic circulation. Experience in sorting waste directly at the landfill and at the marshalling yards near the landfill sites has shown that it is possible to extract up to 50 % of valuable components and significantly reduce the load on the landfill. Today it is necessary to spread this experience throughout the territory of the republic.

In the European Union countries, despite the principles of a market economy, the policy approach sets higher prices for landfills and mandatory indicators for municipalities for the desired collection and use of secondary raw materials. This experience should also be used. For further effective cooperation between the Russian Federation and the European Union in the field of environment protection and solving global ecological issues it is necessary to harmonize a domestic legislation [2, c. 59].

Currently, more than 120 enterprises and individual entrepreneurs are engaged in waste collection and recycling activities in the Republic, which is very small, given the scale (waste formation). In rural areas, they mainly collect secondary raw materials. The main difficulties of entrepreneurs are obtaining credit for business development, supply of raw materials, high rent. As a result, most of the secondary raw materials are sent for processing outside the republic, to neighboring regions such as Udmurtia and Tatarstan. Accordingly, the main profit remains in the neighboring regions.

The lack of public interest, for a variety of objective and subjective reasons, in collecting waste separately and in reducing the waste mass is an impediment to the development of an effective TDI management system. In some regions of the Russian Federation, experiments have been conducted to organize separate collection of waste, which showed that the success of such a system depends primarily on the willingness of the population to participate in it, and, secondly, the availability of utilities and processing facilities.

A large set of economic instruments is known in world practice, but before adopting any of them, it is necessary to determine the real and adequate price of development of the recycling system, assess the cost-effectiveness of applying existing organizational models in the field of solid municipal wastes management. The solution must be technically and economically feasible.

The legislation in the field of waste management includes more than 100 active documents, including federal laws, decisions of the Government of the Russian Federation, documents of a number of sectoral ministries and departments, as well as legislative acts of the Republic of Bashkortostan. However, this legal framework does not fully regulate the relations in question and requires improvement and updating. Work on improving the legislation is still ongoing.

At present, the State Assembly – Kurultai of the Republic of Bashkortostan considers the Law of the Republic of Bashkortostan on amendments to the Law of the Republic of Bashkortostan «On waste of production and consumption». This law specifies the powers of the state power bodies of the Republic of Bashkortostan, local self-government bodies. Requirements for the development and implementation of regional programmes, to the territorial scheme in the field of waste management. A regional operator for solid municipal waste management is being introduced. Activities and tariffs to be regulated by the State in the field of solid municipal waste management are defined. The procedure for the state regulation of tariffs, the procedure for determining the volume and mass of solid municipal waste at the conclusion of contracts, the procedure for access to information in the field of solid municipal waste management.

At the federal level, discussions are under way on the redistribution of powers between federal and regional authorities and ways of improving inter-budgetary relations. The existing system of income distribution between the federal centre, regions and municipalities is considered sub-optimal and a decision has been taken to change it. Major changes are expected in the Budget and Tax Codes. In the future, the main directions of improving the legal framework in this area should be simplifying and increasing the efficiency of mechanisms for managing waste streams, creating conditions for the development of the business of collecting consumer wastes, their processing and reuse.

Once again, it is necessary to pay attention to the fact that without increasing the overall level of environmental knowledge of the population, this problem cannot be solved. At this stage of social development, there is an increasing need to create an ecological culture as the basis of the general culture of society. Environmental culture should be closely linked to the environmental policy of the State, should be the main objective of all levels of government and civil society institutions, should be based on environmental education and promotion of ecological awareness.

There are a significant number of cases in the courts that concern solid municipal waste, unauthorized landfills. For example, on July 11, 2017 the Kumertau Inter-district Court of the Republic of Bashkortostan considered the case, where the Prosecutor of the Kuyurgazinsky District of the Republic of Bashkortostan applied to the court to the administration of the rural settlement of Bakhmut village council of the municipal district of Kuyurgazinsky District of the Republic of Bashkortostan on liquidation of the unauthorized landfill of solid household waste, indicating that the Kuyurgazinsky District Prosecutor's Office had carried out an audit of compliance with environmental legislation.

It has been established that within the limits of the rural settlement of Bakhmut village council of the municipal district of Kuyurgazinsky district at a distance of about 150 meters from the right side of the road at the entrance to the village of Bakhmut. The unauthorized placement of solid municipal waste results in pollution of the territory and the environment. However, the administration of the rural settlement has not properly carried out its duties in the area of waste management of production and consumption, ensuring sanitary and epidemiological well-being in the territory of the rural settlement, which leads to deterioration of ecological well-being in the territory of this rural settlement and in general Kuyurgazinsky district.

The presence of an unauthorized landfill on the territory of a rural settlement affects the quality of life and well-being of an undetermined circle of persons, and it also leads to a significant deterioration of the sanitary and epidemiological situation in the territory of the settlement, negatively affects the state of the natural environment and creates a real threat of epidemiological disease of the population.

In accordance with paragraph 18 of the Decree of the Government of the Russian Federation of November 12, 2016 № 1156 «On the Management of Solid Municipal Waste and the Amendment to the Decree of the Government of the Russian Federation of August 25, 2008 641» the owner of the land parcel shall independently ensure the elimination of the place of unauthorized placement of solid municipal waste or conclude a contract for the provision of services for the elimination of the identified place of unauthorized placement of solid municipal waste with regional operator. The court granted the suit.

There are also practical problems of cities, for example, residents of Sterlitamak of Bashkortostan applied to the All-Russia People's Front Center for Public Monitoring of Ecology and Forest Protection. In their appeal residents indicate, in the mid-2000s at the expense of the budget of the Republic of Bashkortostan, the state unitary enterprise «Tabigat» has realized the construction of the first line of the solid household waste range in the city of Sterlitamak in the amount of more than 70 million ruble. According to the public, at the time of commissioning, the

landfill was equipped with the latest technology, had a waste sorting and recycling shop, received international certification. The fact that the polygon was designed and built within the boundaries of the settlement, in violation of environmental legislation, then did not bother anyone.

By 2012, the small landfill turned into a huge one. The declared waste treatment facility was not carried out. What became with «high-tech» equipment and why the activity on sorting and processing of waste has been discontinued the state unitary enterprise «Tabigat» is unknown. By this time private companies LLC «Industry» and LLC «Eco-technologies» appeared in the city. They offered services in the field of waste sorting and processing. At the same time, the heads of these companies openly stated in the media that there is no waste treatment at the landfill, the capacity of the first phase exhausted, the construction of the second phase is in question, and these companies can fix the situation within the state-run private partnership through self-investment and modern technology.

During the «competitive» struggle, connected with a series of scandals and mutual accusations in front of the public of the city, LLC «Ecotechnologies» actually ceased its activity. But LLC «The Industry» in 2012 received from the state unitary enterprise «Tabigat» the right to use what was called the first turn of the polygon of solid household waste and was built for budget money. This happened first as part of a scandalous agency contract, and then the lease of state property was made. Questions of the public about the grounds and procedure of the transfer of state property for the use of a private company, the amount and nature of the company's investment in the modernization of the facility and, most importantly, who and how will make the recovery of the created landfill, have gone unanswered on the pretext of commercial secrecy.

After the transition from state structure to LLC «The Industry» the situation worsened. In the absence of activities on modernization of the facility, LLC «Industry» simply continued to dump the already crowded object with garbage, carrying out this activity without the appropriate license. At the same time, the owners of the enterprise deceived the management of the republic, positioning their enterprise as advanced. The situation has drawn the attention of oversight bodies. Checks had been carried out, fines had been issued, injunctions had been issued and even an illegal business case had been brought. It was found that the placement (burial) of waste within the boundaries of the settlement is prohibited in principle and, accordingly, the activity of LLC «Retindustriya» on burying of waste at the landfill of solid household waste in the city Sterlitamak cannot be carried out. The question arose about the prosecution of LLC «The Industry» for signs of illegal entrepreneurship. How «competent» bodies and «professional» market participants in the person of LLC «The Industry» and the state unitary en-

terprise «Tabigat» missed this question at the stage of design, expertise, construction and operation of this facility remains a mystery.

Nevertheless, the result of the inspection by the Prosecutor's Office of the Republic of Bashkortostan was received. The findings confirmed the public's fears. The first phase of the solid household waste landfill in Sterlitamak is operated in violation of the current legislation. The facility is not in the State Register of Waste Disposal Facilities. A fine was issued and a writ was issued. In the event of such violations, it can be expected that illegal activities will be halted, but unfortunately this has not happened. Illegal activities have continued. The Prosecutor's Office of the Republic of Bashkortostan found, firstly, that there is no positive conclusion of ecological expertise in force, and secondly, that the Sterlitamak city administration illegally issued a building permit. The order has been issued. But now, the question of the residents is open, they say it in the media and social media groups.

Waste management is a pressing issue in all Russian cities. For example, the commissioning of a pilot Kostroma Waste Disposal Plant, designed to significantly reduce the amount of waste disposal, caused discontent among citizens due to the sharp rise in the prices for garbage disposal¹. Minister of Natural Resources and Ecology Sergey Donskaya said in an interview for the Russian newspaper that the «environmental consciousness of citizens will be formed with the help of the ruble. Those who litter the streets and nature will be punished with fines. But those who are not afraid to get their hands dirty and will sort their waste before sending them to the garbage can pay a smaller rent»².

Thus, the field of solid municipal waste is the most relevant and significant for the city. The development of industrial and agricultural production, construction, transport and services is accompanied by a continuous increase in the volume and complexity of waste generated in these areas, as well as in the consumption (operation) of the corresponding goods, works and services. Our country pays much less attention to the problem of collection, utilization and processing of solid municipal waste than developed countries in Europe or America. Management, transport and disposal methods are hopelessly outdated and cannot guarantee environmental safety, which in some cases can lead to deplorable and irreversible consequences. Among the types of waste, solid municipal

¹ Скудаева А. Костромские общественники и бизнесмены недовольны тарифами на утилизацию отходов [Электронный ресурс] // Российская газета. 2017. № 7298 (132). URL: <https://rg.ru/2017/06/20/reg-cfo/ekologichnaia-pererabotka-musora-v-kostrome-vyzvala-rost-tarifov.html> (дата обращения: 11.10.2022).

² Березина Е. Подходы к отходам [Электронный ресурс] // Российская газета. 2017. № 7874 (208). URL: <https://rg.ru/2017/09/14/donskoj-sortiruiushchie-musor-rossiane-smogut-poluchit-lgoty-po-zhkh.html> (дата обращения: 06.10.2022).

waste occupies a special place. This hazard affects all stages of solid municipal waste management, from collection and transportation to preparation for use of waste components and destruction or disposal of unused fractions.

References

1. Tulipanov F.M. The Powers of Local Governments in the Field of Natural Management and Environment Protection. *Pravoporyadok: istoriya, teoriya, praktika = Legal Order: History, Theory, Practice*, 2014, no. 2 (3), pp. 170–173. (In Russian).
2. Mukhametgareeva N.M., Yusupova Z.A. Development of International Legal Relations between the European Union and the Russian Federation in the Field of Environmental Protection. *Vestnik Instituta prava Bashkirskogo gosudarstvennogo universiteta = Bulletin of the Institute of Law of the Bashkir State University*, 2021, no. 4, pp. 53–58. (In Russian).

Список источников

1. Тюльпанов Ф.М. Полномочия органов местного самоуправления в сфере природопользования и охраны окружающей среды / Ф.М. Тюльпанов // Правопорядок: история, теория, практика. – 2014. – № 2 (3). – С. 170–173.
2. Мухаметгареева Н.М. Развитие международно-правовых отношений Европейского союза и России в области охраны окружающей среды / Н.М. Мухаметгареева, З.А. Юсупова // Вестник Института права Башкирского государственного университета. – 2021. – № 4. – С. 53–58.

Информация об авторе

Ибатуллина Наталья Сергеевна – кандидат филологических наук, старший преподаватель кафедры международного права и международных отношений Института права

Information about the Author

Ibatullina Natalya Sergeevna – Candidate of Sciences (Philology), Senior Instructor of the Chair of International Law and International Relations, Institute of Law

Статья поступила в редакцию 09.11.2022; одобрена после рецензирования 13.12.2022; принята к публикации 13.12.2022.

The article was submitted 09.11.2022; approved after reviewing 13.12.2022; accepted for publication 13.12.2022.