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Environmental Law Administration and Policy in the USSR

Professor Oleg S. Kolbasov*

I am going to outline the principal new features of current Soviet environmental policy, law, and administration. Environmental policy in the USSR is part of the general social economic policy which has undergone development under the new leadership. Today, the Soviet leadership seeks increasingly more positive results for both the people of the Soviet Union and mankind generally. Soviet environmental law exemplifies this new policy.

Current environmental policy in the Soviet Union is characterized by four new principal features. The first principal feature is the duty to comply with environmental law. There is a strong relationship between environmental law requirements[1] and economic and social practices. Previous Soviet administrations made errors which led to a gap between environmental law requirements in legislation and real life. The errors can be corrected by improving the planning system and the financial and material support for environmental protection measures. In the Soviet Union, there are approximately 55,000 large industrial plants and enterprises, 27,000 state farms, 26,000 collective farms, and about 700,000 other kinds of enterprises, all of which play a major role in developing our economy and social life. Those who run these enterprises increasingly understand the significance of complying with environmental requirements.

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1. J. Hazard, W. Butler & P. Maggs, The Soviet Legal System: The Law of the 1980's 121-29 (1984).

The second feature is the need for public participation in the conservation and efficient use of resources. Today, there is a new approach to saving energy and conserving natural resources. The Soviet Union is trying to correct its consumer energy policy and introduce low-waste and wasteless technology and promote the proper utilization of waste. Public participation is important to these efforts. The Soviet leadership has been trying unsuccessfully for a long time to involve public organizations in the decision-making process. New measures to include the public in decisions regarding the development of our economic and social life have been undertaken and positive results can be seen in conservation decisions. For example, last year the Central Committee of the Communist Party of the Soviet Union and Council of Ministers of the USSR adopted a special decision on counseling the project on turning the northern rivers to the southern portion of the Soviet Union. The decision was adopted as a result of strong public pressure, following more than two years of substantial public discussion. In addition, there are a number of other examples of efforts to revise new activities and correct previous decisions. For instance, a week before the New Year of 1987, the Special Congress on the state of Lake Baikal took place in Moscow. This congress was chaired by Igor Legachev, a member of the Politburo. The fact that a Politburo member chaired the Congress indicates the importance that our new leadership attaches to solving environmental problems in the Soviet Union.

A third feature is the strong enforcement of environmental laws. It is well known today that the Soviet leadership is trying to provide a stronger legal regime for the enforcement of environmental laws. This includes not only refining Soviet legislation, which might be considered highly developed in comparison with the legislation of other countries, but also a strong concern for the enforcement of these legislative requirements. The Soviet Union has clearly expressed both environmental requirements and scientific based requirements in the All-Union Constitution which was enacted ten years ago. We have also expressed environmental requirements in the areas of land, water, mining, and forest legislation, in the

basic laws on air protection, and on the protection and use of wildlife. There are a number of special laws which prescribe environmental safeguards as expressed in the titles of the law. For example, there are strong statutes concerning the state of soils, small rivers, and the biological diversity of wildlife. Soviet administrators are equally concerned with the environmental consequences of industrial accidents.

The fourth feature is the need to enact new environmental laws. Environmental lawyers of the Institute of State and Law (the "Institute") continue to develop and draft new laws. At this time, a new draft of law regarding the protection of wild plants is being prepared in our Ministries and in the All-Union government.[2] The Institute is also insisting on the development of an All-Union law on a national environmental policy. Law reform experts in the Institute are well acquainted with the National Environmental Policy Act[3] of the United States and are evaluating its concepts. The Soviet Union should enact a "General Act on Environmental Policy," although there is no consensus that such a comprehensive law is needed. Soviet law reform should undertake some basic initiatives to provide environmental requirements for the Soviet Union's very centralized economic life. Additionally, the Soviet Union should develop laws for national parks, national monuments, recreational areas and other protected territories.

Beyond these new legislative developments, the Soviet Union must also pay more attention to environmental laws proposed a few years ago. There is a need to concentrate the attention of the nation's most senior officials and governmental bodies on relevant aspects of implementing Soviet environmental laws. During the past two years, a number of Soviet Ministries, Departments, and State Committees considered the problems of environmental requirements and how they accord with recommendations of the Supreme Soviet of the USSR. A year ago, I participated in a Special Session of the

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2. *See* A. Iskoyan, *Issues Related to Legal Protection of Wild Plants*, 5 Pace Envtl. L. Rev. 519 (1988).

3. National Environmental Policy Act, 42 U.S.C. §§§§ 4321-4370a (1982 & Supp. 1986).

Supreme Court of the Soviet Union which considered the problem of the implementation of environmental law requirements in court practice in the Soviet Union.

In comparing the Soviet Union's environmental law with the environmental law of the United States, it should be noted that the Soviet Union has adopted some of the positive features of American practice. For example, during the development and drafting of a law on air protection, the American system of standards for air quality and emissions was considered.[4] Also, we are examining adoption of the American practice of using environmental impact statements.[5]

The Soviet Union has environmental experts functioning within the planning system bodies. These bodies are responsible for capital investments and large public participation in the Soviet Union. For instance, I am a member of a special group of environmental experts associated with the State Committee on the Planning of the Russian Federation. My duties include a monthly consideration of large projects planned within the territory of the Russian Federation. There is an overriding concern with the structure and function of Soviet environmental administration which was previously developed without considering well known principles of conservation and nature protection. However, the management of environmental protection and the regulation of natural resources are currently too dispersed among the governmental bodies.

In preparation for the study of America's environmental administration system on the federal, state and local levels, I prepared a comparative report which reflected the present state of administration in the Soviet Union. Among the organs of the All-Union or federal government are the legislature, the Supreme Soviet of the USSR, which has 1500 members in both Houses. Each House of the Supreme Soviet has State Commissions for Nature Protection and Rational Use of Natural Resources. There is also the Council of Ministers, the ex-

4. Clean Air Act, 42 U.S.C.S. §§§§ 7401-7642 (1982 & Supp. 1988).

5. National Environmental Policy Act, § 102(2)(C), 42 U.S.C. § 4332(2)(c) (1982 & Supp. 1986).

ecutive branch in the Soviet Union. Within the Council of Ministers are a number of bodies responsible for managing environmental protection. In 1981, the Special Commission on Environmental Protection and Rational Use of Natural Resources was established within the Presidium of the Council of Ministers. This Commission has the power to inspect every kind of activity concerning the implementation of environmental law requirements. There is also the State Planning Committee, State Committee on Science and Technology, State Investment Committee, State Committee on Standardization, and Ministry of Finance, all of which are wholly or partially responsible for environmental protection. There are more than ten Ministries, Committees and Departments specially obligated to regulate activities connected with the use of soils, minerals, waters and other natural resources. This list does not include the more than one hundred Ministries, Departments and State Governmental bodies which are responsible for economic and social activities in the Soviet Union which have an impact on the environment. These bodies are obligated to provide environmental requirements within their area of economic or social activities. Below the federal level, there exists a complicated structure of government dealing with environmental protection on the level of the fifteen Union Republics and again at the local level.

Government structure in our two countries is very complicated. In the United States, there is the federal government, 50 state governments and 82,000 local governments. In the Soviet Union there is a government on the federal level, 15 governments on the Union Republic level, and 52,000 local governments which are responsible for the managing of environmental protection activities.

In 1986, in an effort to streamline and restructure environmental authority in the complex Soviet governmental setting, the Central Committee and Council of Ministers introduced a special decree to establish a State Committee on the Environment in each Union Republic to replace the many different bodies, agencies, and departments. The same recommendation was taken up by the All-Union Council of Ministers in January of 1987, and in 1988, the State Committee for

the Protection of Nature (*Goskompriroda*) was established.

Over the next few years, these administrative reforms should produce a clear structure of environmental administration in the Soviet Union. Nonetheless, this new structure remains very controversial. There are many who do not agree with this reform; many who will support the existing agencies and resist the restructuring of their institutions.

In sum, this is an historical moment as the Soviet Union moves toward advanced forms of structure and style for the administration of environmental protection. In the near future, the reforms described here will result in new accomplishments in safeguarding the environment, not only in the Soviet Union, but also on the international level. In this aspect, our comparative law studies are united. They both address a common policy purpose: protecting nature and human life in a shared biosphere.