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RESEARCH ARTICLE

NECESSARY OF NEW LAW ON THE RARE AND ENDANGERED ANIMALS AND PLANTS IN THE REPUBLIC OF UZBEKISTAN.

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Abstract

The article examines the organizational and legal forms of protection of rare and endangered plant and animal species, the reasons for the weak protection of species outside protected areas (nature reserves, national parks), criticized the "soft" protection regime reserves, which are the main organizational and legal form of protection of species listed in the Red Book, because this mode allows you to engage in economic activities (hunting, gathering, harvesting, etc.) against them, and also contains a proposal to improve the relevant legislation.

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Introduction:-

The ruthless exploitation of natural resources and the facilities and extensive in the past, caused great damage to the world of animals and plants in nature. They have come down to a few species of rare or endangered. These simple objects of nature protection methods are inefficient. That is why they are maintained on the basis of special (hard) regime. Such methods of nature protection in legislation, is called "special protection".

Materials and methods:-

Protected natural areas of rare and endangered species of flora and fauna (further - RAESFAF) plays an important role. That is why the existing laws of such objects is also protected with a special legal regime and protection facilities as well.

According to the legislation RAESFAF specially protected natural areas include, but are now included in the legislation aimed at protecting them are poorly developed, they fully conform to the norms of the regime of legal protection and clear mechanisms of effective legal protection. However, in some countries the basic environmental laws, norms, these special objects. For example, in the Russian Federation "Weather reliable" Article 60 of the Law "of rare and endangered plants, animals and other organisms".

Protected natural areas of rare and endangered animal and plant species (hereinafter - RAESFAF) plays an important role. That is why the existing laws of such objects is also protected with a special legal regime and protection facilities as well.

Thus, the “Protection of Nature”, according to Article 3 of the Law of the Republic of Uzbekistan, states that “the state reserves, national, historical, natural and memorial parks, reserves, natural monuments, botanical and zoological gardens, dendrariya parks, as well as the International Committee of the Red Book and the Republic of Uzbekistan animals and plants included in the red Book of protected areas and areas of our country”¹.

RAESFAF to the legislation though specially protected natural areas include, protection them is poorly developed, they fully conform to the norms of the regime of legal protection and clear mechanisms of effective legal protection. However, in some countries developed the special objects basic on environmental laws, norms,. For example, in the Russian Federation “Environmental protection” Article 60 of the Law of rare and endangered plants, animals and other organisms².

Shortcomings in the legislation, of course, cause problems in practice. Now RAESFAF protection is carried out mainly through the Red Book. These facilities are designed to maintain and increase in order to create reserves and natural nurseries are not paying attention to the good work. Besides, ecologists and experts in the specially protected natural areas to be only public gardens, natural reserves and national development, he said³. As a result, the number of RAESFAF listed in the Red Book is decreasing.

Speaking about the relevant legislation and improve its enforcement practices, first of all, concerning the issue of scientific-theoretical foundations. In other words, there is any scientific and theoretical developments of RAESFAF on specially protected nature areas, including the main conclusions?

Legal literature study showed that RAESFAF specially protected natural areas, as the calculation of unanimous opinions.

Many scientists RAESFAF as a consider that of specially protected natural areas, aspects. For example, O.L.Dubovik⁴ divides legally protected natural objects to three: 1) the natural ecological systems, the ozone layer of the atmosphere; 2) land, mineral resources, surface and underground waters, air, forests and other vegetation, fauna, microorganisms, genetic fund, natural landscapes; 3) specially protected natural areas (national nature reserves, natural order, national parks, natural monuments), a rare and endangered animals and plants and their habitats. As we have seen, O.L.Dubovik concludes that RAESFAF is specially protected natural areas. The same opinion was given by S.A.Bogolyubov⁵ and P.V.Chashkin⁶.

But M.M.Brinchuk’s opinion on this matter was different. Originally he considered RAESFAF as an object of the regulation of independent environmental rights, but not specially protected natural territories⁷. Then added these objects to specially protected natural areas as well⁸. Uzbek scientist D.N.Maxkamov and other’s conclude these

¹ Bulletin of the Supreme Council of the Republic of Uzbekistan. 1993. № 1. Article 38. SZ RF.2002. № 2. St.133.

² Collection of Law RF 2002. № 2. Art.133.

³ Abakumov A. Reserves - a key element in the preservation of natural ecosystems // Ekologicheskaya Vestnik. 2010. № 12. p.13.

⁴ Dubovik O.L. Ecologic mistakes. Text book. 3-csv. // M.: “Prospects”, 2010. P.155.

⁵ Bogolyubov S.A. Environmental (Nature and resources) right. Text book. // M., 2010. P.417;

⁶ Chashkin AV Legal protection of rare and endangered animal species: the dissertation ... The master of laws: 12.00.06 Moscow, 2007 218 p. RSL OD, 61: 07-12 / 1365.

⁷ Brinchuk M.M. Ecological law. Text book. 2. // M.: “Юрист”, 2004. P. 58.

⁸ The same source. B. 488.

objects to specially protected objects⁹. O.I.Krassov hadn't reminded that RAESFAF wasn't included to specially protected natural territories¹⁰.

In the laws of other states is frequently seen that RAESFAF is special protected object of nature. In particular in the federal law of "Environmental protection" the Russian Federation in 2002 "Rare and endangered soils, forests and other plants, animals and other organisms and their habitats" is under special protection¹¹.

On the contrary, the Environmental Code of the Republic of Kazakhstan hasn't considered RAESFAF as a special protected natural areas, but not even generally mentioned in the Code¹².

Above we mentioned that in the "Environmental Protection Law" RAESFAF is recognized as specially protected natural areas. However, to further improve the protection of the law, only "recognition" is not enough. The law relating to the legal and enforcement regime with all the necessary requirements and mechanisms need to be specified. In addition, the above mentioned norm of the law with regard to the power of the legal problem. It's known, that "Environmental Protection Law" is the fundamental law of the environmental rights. It can be considered as an "ecological constitution" with general principles specific rules. As a result, many of its provisions seems declarative nature.

Consequently it is reflected in the law, norms and rules are developed and specified in the legislation. For example, its rules on the specially protected natural territories developed in the "Protected Natural Areas" law. But the "Environmental Protection Law" On RAESFAF specially protected natural object, the rules that are defined as "protected zones" is not developed in the law. In particular, Article 4 of its protected natural areas, the concept, according to which "the Earth and (or) width (area) of the priorities of environmental, scientific, cultural, aesthetic, recreational and sanitary-health significance, or permanent agriculture full or partial temporary use of land protected natural territories ". As we have seen, in the Law on special protected natural areas nothing is mentioned about RAESFAF. Maybe this shortcoming is considered in other laws? Its difficult to find satisfactory answer in other law.

In particular, a special law concerning to RAESFAF, first of all, "the protection of animals and the use of" them and "Plant protection and use of them" isn't indicated as a laws specially protected natural areas.

Law of the Republic of Uzbekistan about "The protection of animals and the use of the" of rare and endangered animals in the world as the object of special consideration (Article 4) Articles dedicated to them (36-38). the measures of protection: 1) Red Data Book; 2) reduction of the amount to be killed, or their actions, which may cause damage to the environment is prohibited (Article 36), 3) in order to maintain "create the conditions necessary for mating" (Article 37), 4) rare and endangered animal species (Article 38).

Similarly, the "Plant Protection and use of them is shown in the law " Article 5 of the rare and endangered plants are a special type of flora. However, in contrast to the types of special agents isn't dedicated to them. Only Article 11 of the Law of the Red Book of rare and endangered species of plants manufacturing (collect) should be prohibited, as well as the use of plant species included in the Red Book of the Republic of Uzbekistan, they (or their parts or products), smuggling them abroad, in some cases, the Cabinet of Ministers of the Republic of Uzbekistan state Committee for Nature protection of the Republic of Uzbekistan on the conclusion of the presentations and the Academy of Sciences of the Republic of Uzbekistan on the basis of a permit. However, this legislation is RAESFAF specially protected classes and that the object of their special legal norms and enforcement regime.

⁹ D. Maxkamov The issues of the protection of rare and endangered plants. Monograph // T., 2012. B.5. Lim, B., An E. Protection of biodiversity in nature reserves and national park system of the Main Department of Forestry of the Republic of Uzbekistan // - Ecological Bulletin. 2010. № 1/01. P. 11.

¹⁰ Krassov O.I. Environmental law. Proc. // M.: Norma, 2004. P.545-571.

¹¹ "On Environmental Protection". Scientific-practical commentary to the Federal Law of 10 January 2002 № 7-FZ. Ed. A.P.Anisimova // M.: "Business Court", 2010. P. 43.

¹² Environmental Code of the Republic of Kazakhstan dated January 9, 2007 № 212 // Bulletin of the Parliament of the Republic of Kazakhstan, 2007, № 1, p. 1.

As it turned out, "Environmental Protection Law" On RAESFAF specially protected natural objects, the rule of law properly not developed. Hence, we need to pay special attention to the development of legislation in this matter.

In this regard, the reader keeps RAESFAF, reproduction and restoration of state reserves, national parks, nature reserves or protected areas are carried out within the framework of such an order are not included in the Red Book? Is there any specially protected natural areas as the development of legislation to strengthen the legal status necessary? - Questions arise.

The fact is that the majority of the Red Book RAESFAF grow or live outside protected areas. All of them with the creation of protected areas to cover¹³. This means that, outside the protection of natural living or growing RAESFAF legal status, even though they are included in the Red Book, the specially protected nature ob'ektlarnikiga than "soft". Organizational and legal point of view, the practice of their protection, excluding the Red Book, the "owner".

For example, the state reserves of rare bird with a regime of absolute protection, with respect to any economic activity is prohibited. Bird reserves addition qolsa-? Now the regime of protection of its reserves with the regime of absolute protection, but the Red Book "soft protection" mode is described. If reserves of rare bird outside the law as a set of absolute qo'riqxonadagidek protection regime, the protection would have been very different.

So, as it turned out, the RAESFAF specially protected natural object of legal protection and status of all the requirements, including the mechanisms and the need for adoption of a special law. Such a law known as "rare and endangered animal and plant world of special protection," it said.

This law was adopted in 1973 to make a great base and added Endangered Species of wild flora and fauna Convention on International Trade. Of course, the present Convention to each state's obligations to the adoption of a special law. However, adoption of such a law, the law will serve to coordinate with the norms of international law and would further enhance its credibility before the international community.

We have to accept the proposed law on international experience. In fact, the Amur region of the Russian Federation, "the Amur region of rare and endangered animal and plant species under the protection" of 01.09.2008 № 89-03 can be seen as an example of the law¹⁴.

RAESFAF special legal regime fully and clearly defined on the basis of the acceptance of the new law is that, in practice such a legal regime and mechanisms are expressed in the laws. This is contrary to the principle of the rule of law in the creation of the state in Uzbekistan.

In conclusion we should say that such a law RAESFAF ownership issues, the powers of the bodies of state authority and administration, state and public scrutiny of their limited circulation civil cases, RAESFAF to restore and increase the status of legal entities engaged in dealing with the protection of licensed the use of quotas, so the mechanisms of international trade procedures and requirements of the protection regime, they are growing up and living in the land (water) the status of the land, which is responsible for the protection of the rights and obligations of the damage to the tax and issues of civil liability, the state Cadastre and report them to the human rights violations that may occur and should be reflected in the other cases¹⁵.

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¹³ Currently, the protection of natural areas to 5.75% of the territory. Of these, 1.79% within the natural reserves and national parks.

¹⁴ Consultant: Graduate School. Issue 20. 2013 // www.consultant.ru

¹⁵ The draft law prepared and sent to the Legislative Chamber of the Oliy Majlis.

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