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## Концепция устойчивого развития: нормативный аспект

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### Аннотация

Рассмотрены предпосылки появления новой мировой идеологии — концепции устойчивого развития, возникшей под влиянием планетарного экологического кризиса, связанного с усилением антропогенного воздействия на окружающую среду и осознанием прогрессивным человечеством необходимости выработки нового, отличного от антропоцентрического, подхода к природопользованию и природе в целом. Выполнен исторический обзор зарождения и развития концепции устойчивого развития, международных нормативных документов, отражающих решения об изменении курса всего мирового сообщества от техногенного развития к устойчивому. Отмечен вклад в законодательство Российской Федерации предложений о совместных действиях по продвижению «зеленой экономики»: «экологические» статьи содержит Конституция Российской Федерации; принят головной закон экологического права «Об охране окружающей среды»; кодексы, регулирующие природопользование, содержат нормы, предусматривающие эколого-правовую ответственность.

Отечественными специалистами сделан вывод о том, что переход к устойчивому развитию в каждой стране и в этой же стране в различное время может иметь различные приоритеты, что нашло отражение в законодательстве. В частности, Правительством утверждена Стратегия устойчивого развития сельских территорий Российской Федерации на период до 2030 г. В настоящее время законодательство отражает господствующие антропоцентрические тенденции, однако когда идея устойчивого развития войдет в массы, можно надеяться на изменение потребительского мировоззрения на уважительное, дружественное отношение человека к природе, частью которой он является.

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**Ключевые слова:** антропогенное воздействие, глобальный экологический кризис, зеленая экономика, Конституция Российской Федерации, международные конференции, окружающая среда, природа, природные ресурсы, устойчивое развитие, экологическое законодательство

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# Concept of sustainable development: regulatory aspect

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## Abstract

The paper considers the concept of sustainable development that has been shaped under the influence of the planetary ecological crisis associated with the increasing anthropogenic impact on the environment and awareness of progressive mankind of the need for developing a new, non-anthropocentric, approach to environmental management and nature in general. The authors perform a historical review of the origin and development of the concept of sustainable development as it appears in the international regulatory documents that reverberate the decisions on changing the course of the entire world community from technogenic to sustainable development. The study highlights the contribution of proposals to the legislation of the Russian Federation to take joint actions in order to promote the “green economy” with the Constitution of the Russian Federation dwelling upon the environmental articles, e.g. the major legislation of the environmental law On Environmental Protection adopted recently, and a number of codes to ensure nature management scoping the regulations for environmental and legal responsibility.

According to the Russian experts, the transition to sustainable development in each country and in the same country throughout history may have different priorities, which is reflected in the legislation. In particular, the Government has approved the Strategy for Sustainable Development of Rural Areas of the Russian Federation for the period up to 2030. Currently, the legislation dwells upon the prevailing anthropocentric trends, but when the idea of sustainable development reaches the critical mass, a transition from the consumer worldview to a respectful and friendly attitude of humans to nature where they belong seems hopeful.

**Keywords:** anthropogenic impact, Constitution of the Russian Federation, environment, environmental legislation, global ecological crisis, green economy, international conferences, natural resources, nature, sustainable development

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In the light of the threat of the global ecological crisis that has made the great minds come to a halt and reconsider the irresponsible and predatory use of natural resources anthropocentrism, i.e. making natural environment subordinate to supreme human species has received even greater development. The UN Stockholm Conference on the Human Environment held on June 5–16, 1972<sup>1</sup> proclaimed Principle 1 that stipulates that people are to be granted freedom, equality and adequate conditions of life that allows dignity and well-being. Man bears ultimate responsibility to protect the environment for future generations.

Obviously, the natural environment was considered only as a means of meeting human needs where a human is a pinnacle of creation. The same principle with slight variations was maintained further.

The results of the conference were issued in Stockholm Declaration (1972) which presented and analysed the current challenges in a systematic way, and also stated 26 Principles according to which economic factors were crucial for ensuring sustainable development.

Our Common Future Declaration presented at the 42nd session of the UN General Assembly in December 1983 considered sustainable development as a means of preserving nature for humans, i.e. development that meets the needs of the present without compromising the ability of future generations to meet their own needs [Eds Evteev and Perelet, 1989].

In the constitutions adopted after the Stockholm Conference (e.g. Spain, the Netherlands, Turkey and many republics within the USSR), there appeared corresponding articles on the environmental rights and the obligations of governments, i.e. the so-called environmental, or green articles. However, the emotional component, lack of a clear-cut definition of the terms used to impede the performance of legal regulation and made many documents unnecessarily declarative.

In 1987, the World Commission on Environment and Development (WCED) considered the concept of sustainable development from the standpoint of ecologically balanced solution to social and economic issues, within which the human well-being does not cause environmental degradation and depletion of natural resources. Herewith, the decisive factor of sustainable development is taking into account the environmental factor, i.e. eco-efficiency.

Despite the fact the global crisis recovery has been widely discussed, there is still no commonly shared

definition of the term sustainable development. However, such development provides for the implementation of the second condition, i.e. eco-equity that is deemed as global economic justice of using natural resources within one generation and between generations.

In the 1990s, the number of definitions of sustainable development reached several dozen, and since then has increased even more. Currently, the term sustainable development refers to economic and social changes when the exploitation of natural resources, investment channels, scientific and technological progress, personal development, institutional transformations and economic performance are interconnected and strengthen the current and future potential to meet human needs and aspirations.

Meanwhile, there was already a shift from the reckless use of nature for the benefit of man to a more prudent and careful attitude towards it.

The UN Conference on Environment and Development UNCED held Rio de Janeiro, in June 1992, was to eliminate contradictions between the development of civilization and nature conservation. At the conference a special value was placed on the evolution of the sustainable development concept, as the concept set to society, states and the business community the task of social responsibility and introduced a new tool, which is now deemed as a sustainable development strategy<sup>2</sup>. The strategy was introduced regarding economic, social and environmental prospects. 179 countries represented by their leaders at the conference made an unprecedented decision to shift the course of development of the entire global community from technogenic towards sustainable development.

The adopted concept has received official recognition as its main document Agenda 21 was an appeal to the governments of several countries who should develop national strategies for sustainable development with broad public involvement. Today, this concept is the most widespread and is often referred to as the world model of the future of civilization. Agenda 21 says that sustainable development is aimed at eliminating poverty and preventing environmental degradation.

The conference was held within the stable geopolitical landscape when the political tensions between the USSR and the United States were over, the economy of the developed countries showed a marked tendency to grow, while some developing countries demonstrated positive socio-economic dynamics, etc. All these gave rise to hopes that the countries would, cooperate to build a new world

<sup>1</sup> UN (1973), Report of the United Nations Conference on the Human Environment Stockholm, June 5–16, 1972. United Nations, New York, 1973. Available at: [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/CONF.48/14/REV.1](https://www.un.org/ga/search/view_doc.asp?symbol=A/CONF.48/14/REV.1) (accessed 10.09.2020).

<sup>2</sup> UN (1992), “On environmental protection and sustainable development”, Declaration of the UN Conference. Available at: [https://www.un.org/ru/documents/decl\\_conv/declarations/riodecl.shtml](https://www.un.org/ru/documents/decl_conv/declarations/riodecl.shtml) (accessed 10.09.2020).

where economic activity is counterbalanced with the preservation of the environment, without hunger and poverty.

In the Russian Federation, along with the active actions of the authorities at all levels the economic growth of the early 2000s contributed to the solution to a number of problems in the socio-economic sphere and enhanced the environmental performance.

As a follow-up to the Rio-92 decisions, Russia adopted Presidential Decree "On the State Strategy of the Russian Federation for Environmental Protection and Sustainable Development" No. 236 as of February 4, 1994 (which is no longer valid). Further, by his Decree No. 440 "On the Concept of the Transition of the Russian Federation to Sustainable Development" as of April 1, 1996, the President approved the concept of sustainable development and had the Government of the Russian Federation take into account its provisions in order to develop forecasts and programs of socio-economic development, prepare regulatory legal acts, adopt economic decisions, and also develop and submit to the President of the Russian Federation a state strategy draft for sustainable development of the Russian Federation. Historically, the Decree was the first to instruct the executive authorities to be guided in their program, legal and economic activities by the provisions of the concept of sustainable development, and also set the task to develop the problem at the strategic level.

Critics argued that the concept of sustainable development was shaped from the standpoint of environmental absolutism and liberal economic monetarism, and was not able to assist the legislature in solving the problem of environmental sustainable development both globally and in Russia. However, the majority of supporters of the Concept and famous ecologists [Danilov-Danilyan, 1995] emphasized its environmental meaning as it promoted planning the economy performance regarding the economic capacity of the biosphere, preserving natural ecosystems, maintaining biological diversity.

The idea of sustainable development was further reinforced in the Environmental Doctrine of the Russian Federation approved by the "Order of the Government of the Russian Federation" of August 31, 2002 No. 1225-r<sup>3</sup>. The Environmental Doctrine of the Russian Federation was not implemented and enforced by the President, but only approved by the Government of the Russian Federation. The document contained provisions aimed at preserving natural systems, maintaining their integrity and life-supporting functions for

the sustainable development of society, improving the quality of life, improving health of people and the demographic situation, and ensuring the country's environmental safety. The main ways to achieve this goal are to ensure sustainable use of natural resources; reduction of environmental pollution and resource conservation; preservation and restoration of the natural environment. In order to implement all these provisions we have to preserve and restore biological diversity and self-regulation of natural systems as a compulsory requirement for the existence of human society.

Some principles of sustainable development are provided in the Constitution of the Russian Federation and have been stipulated in a number of regulatory legal acts of the Environmental Legislation. Environmental interests are stipulated in Section 1, Article 9 of the Constitution of the Russian Federation, which provides that land and other natural resources are used and protected as the vital factors that ensure living conditions and activities of those peoples who inhabit the territory of the Russian Federation. The environmental rights of citizens are stipulated in Article 42 of the Constitution of the Russian Federation. These constitutional regulatory enactments are basic for the legal regulation of nature management and environmental protection, which is also provided for in Paragraph 1, Article 72 of the Constitution of the Russian Federation. Nevertheless, there was no consistent focus on ensuring sustainable development in the system of legislative acts of the Russian Environmental Legislation.

The provisions of the concept of sustainable development were taken into account when drafting the new Federal Law No. 7 "On Environmental Protection". Though in the text of the Law adjective environmental is omitted it persisted in being the major law of the ecological legislation.

As it is stated in the Preamble, the Federal Law determined the legal framework of state policy of environmental protection ensuring a detailed resolution to social and economic problems, preserving a favourable environmental conditions, biodiversity, maintaining conservation and regeneration of nature in order to meet the needs of present and future generations, reinforcing the legal enactments in the sphere of environmental protection and safety. In broader terms, in comparison with the previous Law "On Environmental Protection" the regulation mechanism in the environmental sphere is emphasized.

One of the absolute advantages of the new Federal Law of 2002 is the fact that many articles contain the requirement to introduce the best cutting-edge technologies. Thus, according to Article 36, the standards of permissible anthropogenic effect on the environment are to be met in designing buildings, structures, constructions and other objects, with measures be taken

<sup>3</sup> Environmental Doctrine of the Russian Federation approved by the Order of the Government of the Russian Federation of August 31, 2002 No. 1225-r., Legal reference system "Garant". Available at: <http://base.garant.ru/2158906/> (accessed 10.09.2020) (In Russ.).

to prevent and further eliminate environmental pollution, production and consumption waste solutions, with further use of resource-saving, low-waste and non-waste technologies that contribute to environmental protection, restoration of the natural environment, sustainable use and reproduction of natural resources.

The Federal Law strictly prohibits combining the functions of state control in protection of the environment and the functions of the economic use of natural resources, etc.

However, the Law contains many declarative provisions where a number of articles contradict one other [Brinchuk, 2009]. In this regard, in accordance with the changes in the socio-political and economic structure, numerous changes, additions and amendments have been made and continue to be made to the regulatory legal act.

Despite the fact the Federal Law had some drawbacks, the Russian Federation was ready to discuss the results of using the principles of sustainable development, scheduled in September 2002 at the World Summit, Johannesburg, South Africa. The Forum aimed to revitalize the global partnership required to achieve the sustainable development goals. It was assumed that in order to implement the provisions of Agenda 21 a larger program will be developed within the UN system, in addition to UNEP. The official account of the Conference proceedings was provided in *The Future We Want Report*<sup>4</sup>.

However, the decisions of the summit and the 47th session of the UN General Assembly did not provide specific guidance for further allocation of new additional financial resources, since Agenda 21 shall be implemented mainly by states, while now it is being to be funded by the public and private sectors with the support from UN parties if necessary. Conceived as a continuation of Rio92, the provisions Rio+10 showed that environmental protection has given way to eliminating poverty in most countries' policies. Poor countries demanded aid for their development, at least up to 0.7 GDP of prosperous countries. So far, the very concept of sustainable development has not acquired new clarifications. If earlier the global aspects served as the basis for uniting the efforts of the world community to preserve the biosphere, at the summit the biosphere issues were completely forgotten.

The development of society at the end of the 20th century was mainly focused on rapid economic growth, which caused unprecedented damage to the environment. The market economy has shaped a new meaning of being rational, e.g. rational profit was proclaimed as the

only truth without ethical concern in nature. Moreover, ecological thinking was frequently rejected and was branded as naive and ridiculous. Human treatment of the environment based on human supremacy has become one of the main causes of the ecological crisis on the planet, while the increased role of the economy was the most potent factor in the destruction of the biosphere.

At the forum in Johannesburg, Russia presented a detailed report on fulfilling international treaty obligations in environmental protection. However, it was kept silent that all environmental codified acts, e.g. Land, Forest, Water Codes, were altered in order to weaken environmental requirements. This was justified by the early application of environmental laws. According the leading economists, Russia will take care of the environment when it becomes rich. According to the generally shared opinion, nature conservation is the lot of prosperous states, which is vigorously stated by countries with resource economies, who by definition are either not able or do not want to protect their ecosystem [Mayorova, 2017].

The global financial and economic crisis of 2008–2009 interrupted the progressive development of Russia and many countries of the world. Environmental issues downgraded on the list of priorities. Nevertheless, in 2011–2012, an expert group helmed by V. A. Mau and Ya. I. Kuzminov developed *Strategy 2020* on behalf of the Government of the Russian Federation. The authors assumed that Russia was to reach the sustainable development aimed at modernizing the economy and ensuring the convenient transition to the innovative development and the infrastructure of the post-industrial society [Polozhikhina, 2014].

The World Wildlife Fund (WWF), the Zoological Society of London (ZSL) and the Global Footprint Network (GFN) issued the *Living Planet 2012* report timed to coincide with the June UN Rio 20 Conference on Sustainable Development in Rio de Janeiro, Brazil. The report says that the entire global economy operates on natural credit consuming 50 per cent more biological resources than it could afford with setting the task of balanced development. The Brazilian Summit showed the many difficulties in implementing sustainable development policies. With difficulty the conference achieved a decision to launch the process of developing the Sustainable Development Goals, which in 2015 were supposed to replace the Millennium Development Goals and to establish the United Nations High Level Political Forum on Sustainable Development (HLPF). In addition, the parties got the UN Statistics Office work on new indicators of sustainable development that would add to the GDP. They also agreed to expand the membership of the Council of the United Nations Environment Program (UNEP) without enhancing its rank and without gaining a status of an organization within the UN system. According to the

<sup>4</sup> Johannesburg summit 2002, Official website of the world summit on sustainable development, Assessing the Johannesburg summit: what's new? Available at: <http://www.un.org/russian/conferen/wssd/story.htm> (accessed 10.09.2020) (In Russ.).



UN, the total amount of the announced funding for sustainable development projects in agriculture, energy and transport, natural disaster risk reduction, forestry policy and other areas exceeded 510 billion USD. On the whole, the finalized document of the summit turned out to be weak and inadequate<sup>5</sup>.

A way out of this situation is a model of sustainable development that presupposes a balance of economic growth rates with the rates of reproduction of natural resources and the quality of the environment within the framework of the nature's assimilation potential. However, all proposals for joint actions to promote the green economy are not obligatory. Russian experts concluded that the transition to sustainable development in each country and in the same country at different times may have different priorities [Ursul, 2013].

Nevertheless, this model is taken into consideration extremely rarely. Apparently, that is why it has found low legal performance. However, the voices of representatives of the active part of society about the need to introduce green economy are louder and louder.

According to the authors green economy is aimed to increase the standards of living and eventually to significantly reduce the degree of exploitation of the natural environment and natural resources. The invariance lies in the basis of this principle, i.e. mankind has no other way out. It is possible to introduce green economy if we rely on resource-saving and innovative technologies, which is able to reduce the risks to the environment. Evidently, green production will require regulations to be introduced that will oblige businesses to establish certain principles of work. In the meanwhile, all proposals to promote this are only advisory and are optional.

Russian environmental legislation is being constantly modernised. However, the innovations introduced are not directed at strengthening environmental protection measures, but at monetising the negative impact on the natural environment.

Moreover, the Russia's state policy of sustainable development is to be implemented in rural areas regarding the long-term socio-economic development of the Russian Federation for the time period up to 2020 year approved by the Order of the Government of the Russian Federation No. 1662-r as of November 17, 2008, and the Spatial Development of the Russian Federation Strategy for the time period up to 2025 approved by the Order of the Government of the Russian Federation No. 207-r as of February 13, 2019. The main points of the Concept of Sustainable Development of Rural Areas of the Russian

Federation for the time period up to 2020 approved by the order of the Government of the Russian Federation No. 2136-r as of November 30, 2010, were developed in the Strategy for Sustainable Development of Rural Areas of the Russian Federation for the time period up to 2030 approved by the Order of the Government of the Russian Federation No. 151-r as of February 2, 2015, and are implemented within the framework of the State Program for the Development of Agriculture and Regulation of Agricultural Products, Raw Materials and Food Markets approved by Decree of the Government of the Russian Federation No. 717 as of July 14, 2012.

The development of the strategy is up to the point: being an unstable agriculture, Russia's is not a bonanza farm which is able to feed everybody. However, many Russian areas can be successfully used for growing fodder plants, animal husbandry and a number of rare industries (beekeeping, flax growing, berry growing, reindeer breeding, etc.). Contrary to popular belief, the country's agriculture continues to develop, e.g. in grain production, Russia occupies a leading position in the world due to the presence of regions with appropriate climate conditions. Thus, the developed programs for developing rural areas should be based on the environmental imperative.

The public discussion of the amendments to the Constitution of the Russian Federation in the spring of 2020 raised environmental initiatives at the meetings of the working group. The construction lobby and industry representatives who take interest in making a profit but not in preserving the country's nature are disposed towards over-exploitation of natural resources. Introducing a consistent and effective environmental policy can make their activities unprofitable.

On a par with qualified ecologists, animal protectors, public organizations and financiers urged the state to place special emphasis on nature protection. They take particular interest in ensuring the fact that foreign creditors with high requirements for environmental policy see that Russia is following the policy of greening and protection of nature.

According to Article 2 of the Constitution of the Russian Federation, people with their rights and freedoms are considered to be the highest resource and value. This dictum was introduced to the Russian legislation in the 90s of the 20th century. At that time, it voiced a denial of collectivism imposed from the upper government structures, the attitude towards a person as a cog in the machine. However, after the period of euphoria, people have come to the understanding that the seemingly humane statement written in the country's fundamental law can be interpreted as the priority of human rights and human needs over nature. Since a person has a quality of the highest value, all nature conservation activities should be carried out in the name of humans and for the sake of preserving

<sup>5</sup> Rio + 20 (2012), United nations conference on sustainable development (UNCSD). Available at: <http://www.uncsd2012.org/rio20/index.php?page=view&type=13&nr=50&menu=46> (accessed 10.09.2020).

them as species, for their protection and salvation. This point of view has many supporters in the science of environmental law [Brinchuk, 2017].

Suffice it to point out that there is a tendency to consider environmental safety as a state of human protection from a dangerous and hostile nature, despite the alternative definition given in the glossary of the basic environmental

law. The existence of man as a biological species is impossible outside the natural environment.

Despite the prevailing anthropocentric tendencies, the Concept of Sustainable Development aimed at taming the excessive exploitation of natural resources can be analysed as an obligatory first step towards a careful, sustainable attitude towards nature where mankind belongs.

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