Вестник РУДН. Серия: Юридические науки 2022 Т. 26. № 4. 959—975
RUDN JOURNAL OF LAW. ISSN 2313-2337 (print), ISSN 2408-9001 (online) http://journals.rudn.ru/law

https://doi.org/10.22363/2313-2337-2022-26-4-959-975

Research Article

From RSFSR Land Code of 1922 to the theory of environmental law: Oleg Kolbasov's scientific heritage

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Abstract. Development of the contemporary ecological or environmental law roots in the far past of the Soviet law-making period; it goes on creatively borrowing legal concepts, legal mechanisms and methodology of legislative regulation. The Land Code of RSFSR adopted in 1922 has become the first act that played a historical role in the development of natural resources and ecological law. Such evolution was accompanied by theoretical legal research carried out by representatives of the Soviet legal science on nature protection. In the constellation of scholars, a remarkable place belongs to Oleg Kolbasov a famous and talented researcher and lawyer-ecologist. In his works he raises the issues that are still topical both in the legal science and the law-making activities; these are the issues concerning the name of the branch of law dealing with nature and man interrelations, its system and contents. He is also the author of highly demanded fundamental works on Soviet water resources law. The Article provides an analysis of the Land Code of 1922, and Kolbasov's scientific views on the development of nature protection law in the context of Soviet land use, nature resources and environment protection legal acts.

Key words: Land Code of 1922, ecological (environmental) law, natural resources law, nature protection, water use, water bodies

Conflicts of interest. The author declares no conflict of interest.

Article received 28th August 2022
Article accepted 15th October 2022

For citation:

Krasnova, I.O. (2022) From RSFSR Land Code of 1922 to the theory of environmental law: Oleg Kolbasov's scientific heritage. *RUDN Journal of Law.* 26 (4), 959—975. https://doi.org/10.22363/2313-2337-2022-26-4-959-975

https://doi.org/10.22363/2313-2337-2022-26-4-959-975

Научная статья

От Земельного кодекса РСФСР 1922 года до теории экологического права: из научного наследия О.С. Колбасова

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Аннотация. Развитие современного экологического законодательства уходит корнями в далекое прошлое советского законотворчества, продолжая и творчески заимствуя правовые концепции, правовые механизмы и методологию правового регулирования. Одним из первых актов земельного законодательства, сыгравший историческую роль в развитии на его основе природоресурсного и экологического законодательства стал Земельный кодекс РСФСР, введенный в действие Постановлением ВЦИК 30.10.1922. Этому развитию сопутствовали научные правовые исследования, проводимые представителями советской науки права об охране природы. В плеяде исследователей заметное место принадлежит известному и талантливому ученому, юристу-эколого О.С. Колбасову. В своих трудах он поднимает остающиеся актуальными сегодня как в науке, так и в законотворчестве, вопросы наименования, системы и содержания отрасли экологического права. Его перу также принадлежат востребованные сегодня фундаментальные труды по советскому водному праву. Проведен творческий анализ Земельного кодекса РФ, а также научных исследований О.С. Колбасова о развитии права охраны природы в СССР.

Ключевые слова: Земельный кодекс 1922 года, экологическое право, природоресурсное право, охрана природы, водопользование, водные объекты

Конфликт интересов. Автор заявляет об отсутствии конфликта интересов.

Дата поступления в редакцию: 28 августа 2022 г.
Дата принятия к печати: 15 октября 2022 г.

Для цитирования:

Краснова И.О. От Земельного кодекса РСФСР 1922 года до теории экологического права: из научного наследия О.С. Колбасова // RUDN Journal of Law. 2022. Т. 26. № 4. С. 959—975. https://doi.org/10.22363/2313-2337-2022-26-4-959-975

Introduction

The environmental law of Russia, having passed a long and difficult path from the beginning of its formation in the first decades of the last century to the high level of its development, today occupies a stable position as an independent branch of law in the Russian legal system[1]. In response to increasingly complex public

[1] *Bogoliubov, S.A.* (2019). Specifics of juridical liability in the system of ecological relationships. *Russian Law Review.* (4), 105—119.

relations, an independent block of environmental legislation is being formed; it is designed to provide a legal solution to existing and emerging environmental problems of society in modern conditions.

Development of the new branch of law originates in historical events in lawmaking that gave rise to long-term foundations of legal regulation, initially predominantly of land, and then extended to the relations in use and protection of other natural objects and resources. The concept of public ownership of land, which, following the Decree on Land of 1917[2] was implemented into the Land Code of 1922, turned out to be in demand by the current natural resources law as the key principle for regulating all natural resources relations.

Development of environmental law was accompanied by scientific studies carried out by a consolidating community of environmental lawyers that touched upon the basic legal concepts, the system and structure of ecological law, and the subject of legal regulation. These gradually crystalizing fundamental theoretical legal categories have become a convincing and necessary condition for recognizing an integrity of legal rules concerning interaction of the society and nature as an independent structural unit. At its cradle and a subsequent long period, the system of legal norms related to nature formed as a land law, and land as an object of regulated relations was viewed as a primary natural object, "a general condition and subject of labor." Land ownership and land use relations played a leading role in the system of relations connected with all other natural resources and constituted a natural basis for the development of public production [3]. Having worked its way from structural differentiation within the natural resources law into water, mining, and forestry branches of law, the environmental law has firmly stepped on the path of integration, consolidating within its system all legal norms concerning nature based on recognition of natural integrity of its components — natural objects and natural conditions.

Fundamental scientific knowledge that has created a theoretical basis for modern environmental law, was laid down in the last century by legal scholars who were sincerely faithful to the idea of preserving the natural resources and who consistently followed the path of developing the concept of environmental law. The significance of this theoretical contribution cannot be overestimated. Today, in the face of new environmental challenges, changing economic and political priorities, growing scale and diversity of impacts on the environment, this scientific knowledge continues to be valuable; this allows the development of ecological law based on historically verified scientific truths.

[2] Decree of the second All-Russia Congress of Workers' and Soldiers' Soviets of 8 November (26 October) 1917 On Land // RSFSR Collected Acts. 1917. No. 1. Art. 3.
[3] Soviet Land Law: Manual. Ed. By N.I. Krasnov. Moscow, Juridical Literature Publishers, 1981. 5—6, 24.

Historical roots — the RSFSR Land Code of 1922

Adoption of the RSFSR Land Code in 1922[4] (further the 1922 Land Code) marked the beginning of a new stage in the development of primarily land legislation, which formed a political, legal and conceptual foundation for further development of natural resources and environmental law. The Code that was primarily designated for regulating land use under conditions of the New Economic Policy gained a particular significance under modern economic market-based reform. It established the status of land as a publicly owned land property that today, within understanding of nature in the environmental law theory is not only recognized as an economic wealth, but also as a natural basis for people's life with the status of environmental property. According to the existing Russian Federation Land Code of 2001 (further 2001 Land Code) the land relations are regulated within understanding of land as a natural object, natural resource and real estate. The RF Water Code proclaims the status of water objects as an essential element of the environment, a natural resource and an object of property rights.

By guaranteeing the use of land by labor landowners and their associations on a permanent and unlimited basis — the prototype of the current right to permanent (perpetual) use of land plots, the 1922 Land Code gave impetus to the active development of an independent institute of nature management that took dominant position, as compared to ownership rights institute; it has become the most practically significant title providing access to economic development of natural resources. In search of the origins of the contemporary legal institute of land withdrawal for state and municipal needs we may also refer to the 1922 Land Code, which today has retained its fundamental characteristics. Both in the 1922 Land Code and in the current 2001 Land Code the land withdrawal is carried out primarily for construction of public objects (melioration, road construction under 1922 Land Code and for the construction of other facilities and other public purposes under the 2001 Land Code) with compensation for losses to land users or by allocating land elsewhere. It is noteworthy, that the existing mechanism for the land plots formation, the rules on their maximum and minimum sizes, on mandatory alienation of agricultural lands in the vent of certain circumstances, clearly echoes 1922 Land Code that provides for the possibility of withdrawing excess land with their conversion for resettlement needs. With a certain degree of conventionality, one may assume that the norm of 1922 Land Code on land-take for improper land use or in cases of non-use of surplus land or when used predatory already reflected the public interest in and concern about arising environmental problems. The amendment to Article 46 states that "land withdrawal shall be carried out according

[4] Decree of the All-Russia Central Executive Committee of 30.10.1922 (as amended on 27.12.1926) On Enactment of the Land Code adopted at the 4th Session of IX Convocation. RSFSR Collected Acts. 1922. No. 68. Art. 901.

to land law that ensure sustainability and opportunity for further development of farms under the local *natural* and economic conditions".

It is clear that 1922 Land Code was principally aimed at redistribution of lands after abolition of private property in 1917. The land management institute was regulated in detail to reach this objective. It must not escape our attention that the term "land management" is preserved in the current land law, and was included into forestry law, although has radically changed its original meaning. Under 1922 Land Code the land management was aimed at streamlining the boundaries of land plots for further withdrawal of surpluses and eliminating striping; in fact, it was an instrument for redistributing land among individuals and organizations. Land management today is a system of measures aimed to plan and ensure rational land use and land protection, to describe locations and/or to establish territorial and administrative boundaries and boundaries of land categories on the ground. Land plots of citizens and organization are excluded from land management activities.

The Land Code ceased to operate only in 1971[5], remaining the legal basis for further development of legal regulation of land relations and an empirical foundation for the formation of the modern concept of environmental law, based on recognition of all natural objects, including land, as objects of environmental legal relations.

Oleg Kolbasov's doctrine on formation of environmental law

A well-deserved place among the founders of the contemporary ecological law belongs to Oleg Kolbasov, a famous researcher, environmental lawyer, Doctor of Legal Sciences, corresponding member of the Russian Academy of Sciences. Practically from the beginning of his scientific biography Oleg Kolbasov followed the path of gradual theoretical comprehension of a new social phenomenon — interaction of the society and nature; he built up on this basis a harmonious theory of environmental law.

Justifying the formation of a new independent branch of law, from his first scientific works O.S. Kolbasov turns to identifying the key criteria[7] recognized at that time by the general theory of law that an independent branch of law must comply with. First of all, we are talking about singling out from the entire array of legal relations the part that develops in the field of interaction between society and nature. The main qualifying feature of such legal relations is the object, although the content of legal relations regarding nature also has a unique industry specificity, determined by the goals of legal regulation and legal principles that consolidate the interests and policy of the state in relation to nature. The USSR Fundamentals of Land Legislation (1968) proclaim that "the state ownership … forms the basis for all land relations in the USSR" but "scientifically based rational use of all lands, their conservation and raising of soil fertility shall be a public

objective" for legal regulation[5]. Other USSR laws as related to nature contain similar formulations of goals and principles defining, among others, the content of regulated relationships.

However, the scope of implementation and further development of this legislation is largely determined by a competent, based on convincing scientific arguments definition of nature as an object of relations to be regulated within the law on nature protection. This particular part of the legal science on nature protection has played crucial role. In the article "Nature as an Object of Legal Protection" published in 1963 Oleg Kolbasov wrote: "Nature forms the external environment of society that evolves independently from people's will and conscience… By labor a certain portion of the outer natural substance breaks away, changes its original forms, becomes more or less isolated from the spontaneous natural forces…" The second part of the material world Oleg Kolbasov relegates to the category of material goods and material assets; these are the objects of society that are cut off from direct connection with land but "put in direct connection with the society". Accordingly, legal regulation of relations in terms of nature should be carried out independently and based on recognition of natural resources as public property. "Regulating relations concerning use of natural resources in national economy, organizing their reproduction and protection, the Soviet state views these resources as a special kind of national wealth that does not coincide with material goods and money accumulations of the society" (Kolbasov, 1963).

Such a division of the material world into two legally independent objects of legal relations remains today an objective basis for separating of, primarily, civil and environmental relations and applying a special set of legal tools and methods to the latter.

With gaining knowledge concerning interaction between society and nature and issues of using and protecting natural resources, which became more complicated, Oleg Kolbasov raises questions concerning trends of further development of nature protection law. In his article "Significance of Nature Protection Law" published in 1972 (Kolbasov, 1972) he puts forward the theory of consolidation of all environmental rules, and, in fact, takes the first step towards substantiating the modern theory of environmental law; he also suggests integrating into the legal system the ecologization method, which is widely applied these days. He writes: "The issue of ways and tools to ensure a holistic approach to nature protection requires a special study. It is evident that components of natural environment are interconnected. Nature is a kind of integrity. Does this mean the need to form a single branch of law covering all relations regarding natural objects and a unified system of nature protection bodies? Are there objective trends towards integration and differentiation in legislation and

[5] USSR Law of 31.12.1968 No. 3401-VII On Approval of USSR Fundamentals of Land Law. USSR Supreme Council Collected Legislation. 1968. No. 51. Art. 485.

management in terms of nature protection?... It is essential to strive for a complete and correct integration of all nature protection requirements in all branches of Soviet legislation".

An issue of further development of nature protection law as a unified branch of law within a single industry in the area of integration and differentiation was touched upon in the monograph "International Legal Protection of the Environment". In this study, Kolbasov notes that "the historically established attitude of people to the natural environment is based on differentiated approach to the material substance of nature". Accordingly, specialized branches have been gradually formed — land, water, mining, forestry, hunting, fishing, maritime, air and space laws". But "according to the latest ideas on overall interconnection and interrelation of natural objects and natural phenomena, a new integrated branch is being formed — environmental law; within it a trend towards consolidation of specialized law branches that take into account ecological requirements is being formed" (Kolbasov, 1982).

In his studies at the dawn of emergence of the modern concept of environmental law (the 80s), Oleg Kolbasov is engaged in the active discussion on the name of the new law branch, its system and contents. This contribution is especially significant today, given that the name of the law branch "environmental law" has not yet taken a stable and uncontested positions in scientific and legislative terminology. Similarly, there is no common understanding of this system of ecological law. The existing regulatory acts randomly apply several terms reflecting the same meaning of the same legal phenomenon that have the same subject of legal regulation. For example, the *Federal Law on Environmental Protection* is enforced (although since mid-90s the efforts to develop the Environmental Code have been made to no avail; it was designated to replace the above-mentioned federal law at the new stage of comprehending the content of environmental relations) (Bogoliubov, 2005). At the same time, the *Federal Law on Ecological Expertise* (not on expertise in the field of environmental protection) is included in the system of laws regulating interaction of society and nature. In the Code on Administrative Violations Chapter 8 is called Administrative Offences Concerning *Environmental Protection and Wildlife Management*, and in the Criminal Code a similar Chapter 26 is named *Environmental Crimes*. The question arises whether they apply to the same public relations, or such relations fall within the regulatory area of different branches of law?

Oleg Kolbasov consistently defends the position on naming the branch of law that would consolidate all rules in relation to nature as a whole, *ecological law* as opposed to the popular in the 70s — *environmental law*. The name *ecological law* in the best way reflects the essence and trends in the development of *ecology* as, originally, the doctrine on interaction of *organism* and *habitats*…, which gradually "before our eyes, becomes — according to academician S.S. Schwarts, — a theoretical basis for human actions in an industrial society towards nature". Upon "codification of natural resources law… we can

expect the emergence of an integrated branch that deserves to be called not a *natural resources law*, but *ecological law*" (Kolbasov, 1976). This point of view is strengthened in Kolbasov's latest publication "Terminological Wanderings in Ecology", where he stresses that this name to the branch of law reflects the regulatory subject area — ecology, to be understood not as a science or natural science discipline, but as a significant and highly important area or sphere of human life" (Kolbasov, 1999).

Defending the concept of ecological law as a consolidated branch of law in the textbook for students "Legal Protection of Nature" published in 1984 he cites the republican laws on nature protection as a positive example of concept implementation. "They provide that all natural values both involved in economic turnover and those not used are subject to state protection and regulation of use. The planning and management entities while developing and implementing economic development plans are obliged to comply with established requirements, namely, to take into consideration the interconnection of nature elements so that the exploitation of certain natural objects does not harm others…" (Kolbasov, 1984).

The idea of the need to regulate the entire complex of public relations regarding nature in a single law or a system of interrelated laws based on uniform principles is expressed in a number of articles devoted to further development in the field of environmental protection. Within a scientific discussion on the concept of "future" law on environmental protection, in his article "Main Trends in Environment Protection Lawmaking" published in 1984 Oleg Kolbasov writes: "Environment protection problems may not be resolved within only natural resources law, because it is complex and affect such aspects of life that are outside the sphere of regulation of land, water, mining, forestry and other laws. It is needed to ensure a holistic approach to addressing environment protection problem from the standpoint of all branches of Soviet law…" as "an umbrella" for the entire regulatory system regarding nature (Kolbasov, 1980).

While discussing methodology of ecological law in the article "Ecology and Law" of 1988, Kolbasov draws the invisible connection between the laws of nature and society tied by the unifying principle of ecological relations. Knowledge of laws of nature and their transformation into social laws is the key to formatting the ecologically friendly and safe behavior of society and its members. According to O.S. Kolbasov, the ecological law in future will follow the path of its "sophistication" that is an irreversible process based on gradual comprehension of the laws of nature" (Kolbasov, 1986).

The above scientific discussion on the system, content, development trends and place of ecological law in the system of Russian legislation that seems to be purely scholastic at first glance, has, in fact, clear practical consequences. The exclusion of natural resources norms from the environmental law leads to fragmentation of the regulatory system regarding nature as a single ecosystem consisting of interacting natural objects as well as separation of economic

environmental management from the protection of natural objects, fragmentation and loss of legal regulation unity.

Expansion of civil law methods in regulating commercial use of natural resources especially under market conditions is a prerequisite for spreading and even expanding civil law regulation in this part; it can also be interpreted as suppression of environment protection interests that are clearly losing positions to the interests of gaining benefits from exploitation of natural wealth. Stressing the unacceptability of such an approach in his posthumous article "Testament to Ecologists", O.S. Kolbasov writes: " billions of people, if they face the option of preserving the favorable natural conditions or gaining wealth (money, property) will prefer the latter… it is impossible to eliminate within a short time the existing antagonism of two types of values existing in society — natural environment and property (material wealth and the power connected with it). In principle, this antagonism can never be eliminated. It can only be mitigated". A resolution of the conflict between natural resources objectives in civil and environmental law, according to Kolbasov, should not only be the "change in the type of thinking" and "understanding of human values", but also the search of balance between the conflicting property and nature protection interests. "Ecological law should play a huge historical role here— it should become a counterbalance to all other laws that guard the material wealth and the power associated with it" (Kolbasov, 2000).

Fighting against invasion of market legal mechanisms in regulation of ecological relations, especially at first steps of the economic reform in early 90s, Kolbasov, proceeded from the inherent characteristic and unremovable contradiction between the "market production" and "environmental requirements"; he questioned the ability of the market to resolve environmental problems and criticized the private property rights to natural resources that were introduced into law at that time. In the article "Are We Betraying (or Selling) the Environment?" he puts a seemingly rhetorical question that today has its own evident answer: "…it may be questioned how the market economy will cope with accumulated and future environmental disasters? …Will they (entrepreneurs) care about social well-being, about survival of all people or will pursuit after profit, and surplus value overweigh ?" (Kolbasov, 1991). The answer "no" is expressed in the present legal rules aimed to strengthen the administrative legal regulation of commercial use of natural resources, state ecological supervision, and liability.

Certain parallels can be drawn between the analytical assessments of the nature protection law of the Soviet era and environmental law of modern times. Looking at the issue of implementing the law on specially protected areas the article "Ecology and Law" published in 1988 (Kolbasov, 1988) noted that in the USSR nature reserves and other protected areas "are poorly protected from various outer interference… penalties for violating the protection regime are hardly enforced". Since adoption in 1960 of the RSFSR Criminal Code no criminal cases under the

article that provides for criminal liability for destructing or damaging natural objects protected by the state have been initiated, "although there are many known cases of intentional destruction and damaging natural monuments". Model provisions on natural reserves and other protected areas "have the status of departmental acts and are frankly ignored by legislative and administrative authorities". The situation has hardly changed today. Publicly available data testify that in the period from 2019 to 2021 Article 262 of the present Criminal Code had never been enforced, and the total share of environmental crimes was about 1.3% in the total structure of criminal cases[6].

The principle of rational nature use is one of the general principles in the present natural resources law. Remaining for a long time a formal and rather declarative norm, today, this principle and compliance with it is becoming the object of growing scientific interests (Kalinin, 2003). Examination of this issue cannot be carried out without taking into account historical roots. One may learn from the monograph "Ecology: Policy — Law" that this legal category stems from the distant past, when Vladimir Lenin outlined the task of raising the economy and at the same time maintaining favorable natural conditions on the basis of complete, effective, economically expedient and scientifically sound use of natural resources with due consideration of the laws of nature" (Kolbasov, 1976:94).

From Kolbasov's studies it becomes clear that the public interest in independent and purposeful legal regulation of nature protection arose in the middle of the last century, but its implementation faced obstacles and opposition from various social circles. In his article "Nature under Protection of Law' published in the form of a brochure in 1989 Kolbasov recalls that "back in 1955 he happened to participate in the preparation of the draft law on nature protection in the USSR. Certain authorities and individuals hampered its development and for various reasons spoke against adopting this law. This issue has not been resolved".

These and other scientific conclusions and suggestions articulated in Kolbasov's articles were summarized and further developed in his fundamental monograph "Ecology: Policy — Law" published in 1976 (Kolbasov, 1976). In this study, in addition to convincing rationale of basic terms in ecological law and arguments on historical conditionality of this law development, Kolbasov provides a detailed analysis of formation and activities of the USSR state authorities in the field of nature protection. Stressing unacceptability of the fragmented approach, aimed at selective issues of nature protection in the context of socio-economic development, the author substantiates the need for consolidation (integration of all government entities into "a single cohesive system") of public administration by setting up a single all-union nature protection agency; such administrative model should be based on the objectively necessary

[6] A review of judicial practice in enforcing Chapter 26 of the RF Criminal Code (approved by the Presidium of the RF Supreme Court on 24.06.2022).

implementation by the state of "an independent, basic" ecological function. From the detailed history of state environmental management, one may learn that the first step towards consolidation of environmental management was taken in 1973, when and Interdepartmental Scientific and Technical Council for Complex Problems of Environmental Protection with coordination and consultative powers was set up within the system of the State Committee on Science and Technology (GKNT in Russian). Soon, a department for nature management in environmental protection with limited executive powers was created in the GKNT. As is known, in 1988 in compliance with the Decree of the Central Committee of the Communist Party and the USSR Council of Ministers dated 7 January 1988 On Radical Restructuring of Nature Conservation in the Country the USSR State Committee for Environment Protection (Goskompriroda in Russian) was established. Thus, another step towards consolidation of state environment governance was taken.

Theory of Water Law

Water law as a wide area of legal ecological knowledge fell within Kolbasov's field of special interests. Even today he remains one of the leaders in the development of this branch of law. Two fundamental monographs published in 1972 — "Water Law in the USSR" (Kolbasov, 1972:216) and "Theoretical Foundation of Water Use in the USSR" (Kolbasov, 1972:221) provide an opportunity to trace the origins of modern water law formation and, based on the study of domestic experience in regulating water relations, to benefit from the well-tested legal concepts and decisions.

As follows from these monographs, the USSR water law started its development with adoption in 1970 of the Fundamentals of Water Legislation (further Fundamentals)[7] that codified the existing at that time numerous governmental regulations of different legal force and covering only selected narrow issues of water use. It should be noted that enaction of the Fundamentals was preceded by extensive scientific and legislative work. Back in 1925 a draft of the Basic Principles of Water Legislation of the USSR was prepared; it formulated the unchanged political position on recognizing the state ownership of waters. However, low assessment of the importance of water resources in the economy, "an erroneous idea of their absolute inexhaustibility" hampered consolidation of law in this area.

It is difficult to overestimate the significance of Fundamentals, given that this law laid down the fundamental and long-lasting legal model of water relations that was retained in the existing water law. Undertaking the study in hot pursuit of water lawmaking, Kolbasov raises controversial theoretical issues of water law at that time. Thus, by making a distinction between water and other relations related to

[7] USSR Law dated 10.12.1970 No. 564-VIII (as amended on 02.12.1987) On Approval of the USSR Fundamentals of Water Law. Supreme Council Collected Legislation. 1970. No. 50. Art. 566.

waters, he determines that "the circle of water relations… includes those related to natural water reserves which are the exclusive property of the state… Relations connected with arrangement and operation of water facilities arising from transfer of water as commodity-material value… are subject to water regulation to the extent that is necessary to ensure the rational water use and water protection" (Kolbasov, 1972:24). Today, this thesis justifies introduction of restrictions on activities that are not directly connected to the use of water bodies but affecting the state of waters; they are included in the scope of legal regulation of water law (Brinchuk, 2018).

Many other still current today and widely discussed in the scientific community issues (Amashukeli, 2021) are also raised in the monograph, including water ownership rights (Volkov, 2018), objects and persons of the regulated water relations, general theoretical issues on concepts of legislation and law. Thus, exclusive state ownership of waters in accordance with the Fundamentals is based on understanding that "land, as well as other natural objects associated with land that form natural environment of the society, are not only the main production means of material wealth, but are also a condition for supporting normal human well-being… Given the significance of natural objects, their possession, use and disposal should be based on undisputable supremacy of state public interests … Exclusive state ownership meets these requirements" (Kolbasov, 1972). The declared federal ownership of waters in accordance with the existing RF Water Code, in fact complies with the criteria of exclusivity of this right once enshrined in the Fundamentals.

"The most important institute of Soviet water law" — right to use water — got the most detailed attention. Under the conditions of exclusive state ownership of waters, the right to use water "mediates relations between the Soviet state… and individual enterprises, as well as between various water users" thus forming the most practically significant independent legal institute (Kolbasov, 1972:13). In the general philosophical and scientific-theoretical terms, the issue of water as an object of water relations, its separation from water as "non-nature", i.e., water separated from nature by human activities and included into the structure of "social things", has been studied. In this context Kolbasov formulates proposals and justifications for improvement of legal regulation in respect of insufficiently clear definitions of water objects when, on the one hand, legally they include natural storages of water (rivers, lakes, etc.), and, on the other hand, artificially constructed water reservoirs, canals, ponds that nonetheless retained the natural features. In his opinion, in such complicated cases the law "while taking into account all the really existing conditions should introduce additional criteria and adopt formal decisions" without ignoring the basic theoretical rationales of understanding of waters. Such a decision should be "the state registry of artificially created water objects" that are to be excluded from the unified state water fund. In the current Water Code, the concept of water bodies remains undefined. Formally, water reservoirs, canals and ponds as "shallow water reservoirs" are included into

the concept of water bodies, however, in practice they may acquire different status. For instance, ponds may acquire the status of a part of a land plot, canals and water reservoirs can acquire the status of hydrotechnical facilities that thereby removes them from water bodies as natural resources and an object of regulated water relations.

Today, the issue of the object of water relations concept remains topical in the context of delimitation of water use and land use relations carried out on water covered lands. It becomes clear from the monographs that the category of *water covered lands* was initially introduced by the USSR Fundamentals of Land Legislation in 1968;[8] it legally separated tightly connected water use and land use relations. Under the conditions of exclusive state ownership of both land and waters such an approach did not have substantial legal consequences; water right automatically served a basis for the right to use the bottom of a water body (water covered land). However, today when the grounds for obtaining rights to land use and water use are different, it is urgently needed to balance the rules of water law and land law in a clear way.

Conclusion

In the system of legislative acts that forms fundamental basis for the development of modern land and environmental law, the key role belongs to the RSFSR Land Code of 1922. By codifying as the way of formatting legislation of that time, the 1922 Land Code became a comprehensive law that covered the whole diversity of land relations and created long-term and time-tested legal institutes of land ownership, land use, and redistribution of land (providing and withdrawing). With certain adjustments many institutes enshrined in this act are preserved in the current land law and used for the development of environmental law.

Nature protection science, as it was named in the initial period of the Soviet history, considering the fundamental principles of land law, gradually and consistently substantiated transformation of legal protection of nature, first into the legal protection of the environment, and eventually, in modern conditions, into environmental law.

A noticeable role in the formation of environmental law belongs to an outstanding researcher of ecological law — Oleg Kolbasov. In his works, he analyses the development of land law and legal protection of nature in a historical retrospective at a high professional level. Proceeding from the philosophical and scientific concepts of interaction of the society and nature, dynamics of the development of the state policy and changing situation in the environment, his works formulate understanding of ecological law as a coherent consolidated and

[8] USSR Law No. 3401-VII of 13.12.1968 (as amended on 02.12.1987) On Approval of the USSR Land Law. Supreme Council Collected Legislation. 1968. No. 51. Art. 485.

independent branch of law that comprises not only rules on environment protection from pollution and other forms of degradation, but also rules governing nature management, including land use. These relations should conform to the single objective of preserving the natural resources by ensuring rational and economically efficient nature management in combination with special measures for their protection. All legal relations concerning nature including property relations should comply with this objective. The status of land and other natural objects of property rights and related rules of civil circulation acquire special features and are subject to restrictions in order to achieve the goal — preservation of natural resources.

Exploring the Soviet water law Oleg Kolbasov formulates the theory of water use law, removes legal uncertainty concerning the concept of "water body", delimits *water use* and *land use* relations, *water use* and *subsoil use*. According to Oleg Kolbasov, the water law in its development is built on the creative borrowing of the main legal constructions expressed in the Soviet land law starting with the Land Code of 1922.

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