



Country Report for Russia (2009)

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Environmental law during 2009, as in the previous two decades, continued to develop dynamically. The year has been characterised for the most part by amendments and changes introduced into previously adopted laws, and the adoption of numerous governmental and ministerial executive acts. The adoption of new laws by the State Duma (the federal legislative body) is quite rare, but did occur in 2009. Although legal regulation of environmental activities falls within the joint competence of the Russian Federation (RF) and its member-units the administrative regions of the Russian Federation (federal regions), the latter play a rather insignificant role in establishing the environmental law framework. This results from recent changes in the legislative policy of the country, when the federal laws declared federal ownership for natural resources, thus preventing the regions from establishing regimes for their use and protection. The new federal laws relieve the regions of their power to regulate the environment and its components within their administrative boundaries, instead delegating federal powers to manage the federally owned natural resources to the regions. Such management powers had already been delegated to regions in relation to forestry lands and forests, water bodies according to the Forest Code and Water Code of the Russian Federation – both adopted in 2006 and last amended on 27 December 2009. The same delegation mechanism is also used in distributing certain executive powers between the two levels of state power irrespective of ownership rights. For example, the Federal Law 'On Organization of Olympic Games

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and Paralympics in 2014 in Sochi and Development of Sochi as a Mountainous and Climatic Resort' (2007 and last amended on 27 December 2009) delegated all powers connected with land use issues in this regard to the Krasnodarsky krai (an administrative region). Similarly, amendments to the Federal Law On Ecological Expertise (1995 last amended on 17 December 2009) proclaimed that ecological expertise (an EIA procedure) of planned activities that may affect the environment as the competence of the federal authorities and simultaneously delegated powers to conduct the EIA in relation to regional projects to the federal regions.

The present development of the environmental legislation is significantly influenced by political decisions taken by the President of the RF or the Government of the RF. The Ecological Doctrine of the Russian Federation was approved by the Government in 2002 and outlines the principle environmental problems affecting Russia and their causes and determines a long-term uniform state environmental policy.

In 2009 two more political documents were adopted. On 13 November 2009 the Government of the RF approved the Energy Strategy of the RF for the period till 2030, replacing the former Strategy adopted in 2003. The Energy Strategy is a comprehensive document and predominantly puts forward tasks and outlines measures to tackle economic issues in the energy sector. The principle objective is to create an innovative and effective energy sector adequate to the growing economic needs of Russia and its international economic interests. To attain this objective it is planned to lower energy consumption in the economy and to accelerate, through markets mechanisms and state support, development of low-consuming activities such as textile, food and machine production. Furthermore, the Energy Strategy highlights the need to move from the extraction and export of unprocessed carbon energy resources (such as oil and gas) to the extraction, domestic processing and export of the resultant processed products. It also sets an objective for the Russia to switch from an emphasis on raw materials exportation to developing its international trade in innovative energy technologies. The Energy Strategy also touches upon environmental aspects of the energy sector, directing progressive limitation of its negative impacts on the environment and climate through reducing pollution, and particularly greenhouse gases emissions with the help of such measures as: encouraging use of environmentally favorable technologies; state support for the use of renewable sources of energy'; and strengthening state control over compliance

with environmental protection requirements in minerals development and energy sectors. The Energy Strategy splits the implementation period into three stages and determines aims for each one. On completion it is expected to reduce the share of the traditional carbon energy sector in the economy, to improve its efficiency and to ensure use wider alternative energy sources based on innovations in technologies.

With a view to elaborating on of the RF's official position in relation to international climate change activities, the President approved the Climate Doctrine on 17 December 2009, outlining strategic objectives and response measures connected with climate change. Pointing to the negative effects of global and regional climate change on the life and sustainable development of the country, it prescribes that such matters should be taken into consideration as key long-term factors in national security and should be viewed as a priority in the national and international policy. Attaining energy security and sustainable development are declared as a strategic objective of this policy. It is acknowledged that the interests of the RF are not limited to its territory and have a global character. The Doctrine stipulates that policy should be based on reliable scientific data, and therefore one of the priority areas of activity should be state support of scientific research and monitoring. In an international context the Doctrine declares that Russia should participate in the scientific initiatives connected with assessment of the risks of the climate change. In addition to scientific research such measures as elaboration of adaptation and mitigation measures in response to climate change are also laid out. According to the document, Russia should aim to raise the energy efficiency and should develop wider the use of alternative energy sources, and protect natural sinks of greenhouse gases and primarily forests. This policy should encourage technological modernization of the national economy and should be aimed to raise the competitive position of the country in the international technological development. The policy also indicates the readiness of the country to participate in rendering assistance to needy and less developed countries in mitigating the negative effects of climate change. In international policy, the Russian approach proceeds from the understanding that only a universal international regime with equal participation of the whole international community can deal with the problem (while taking into consideration the principles of the FCCC, and in particular equal but differentiated responsibility). Among the measures to be taken based on the policy, the President prioritized the development of the necessary legislation. It is to be noted that, while several framework provisions establishing a system of air emission standards, air pollution monitoring, prescribing

to register emission sources are available in the Federal Law 'On Air Protection' (1999), and general forest protection measures are outlined in the Forest Code (2006), presently national environmental legislation does not deal with climate change in a specific way.. Furthermore there are currently no specific provisions connected with development of scientific research in this area, and no legal mechanisms that could encourage energy efficiency or outline specific adaptation or mitigation actions.

In other areas a new developments include the adoption of the Federal Law on Hunting and Conservation of Hunting Resources No. 209-FZ 24 July 2009 (Law on Hunting) developing the framework provisions on hunting of the Federal Law On Wildlife (1995). The Law on Hunting is tailored according to the generally practiced approach, when all the relationships connected with hunting, including ownership, governance, use, procedural and liability ones are regulated comprehensively in one law. This filled a gap in wildlife legislation by establishing overall rules for the use and protection of one of the wildlife objects – hunting resources. In 2004 a similar law 'On Fishing and Conservation of Fishing Resources' resolved the same problem in respect to fishing resources. Previously hunting was regulated by the Decree of the Council of Ministers of the RSFSR of 10 October 1960 'On Hunting' that (although amended in the 90s) had become outdated and did not correspond to the changed situation in the country. The law establishes a list of hunting resources and, as before, allows hunting only in specific places – hunting areas and at specific times - during hunting seasons. Hunting areas may now be leased to any juridical persons, as distinguished from the previous regime when only hunting organizations could access such areas for hunting management. Practically such organisations were non-commercial ones – hunting societies, with hunters being their members. So now hunters in their non-commercial organizations and commercial organizations have become equal in their rights to get hunting areas for use. Hunting areas from state owned lands are to be allocated to such persons through hunting agreements concluded according to the results of auctions, for terms ranging from 20 to 49 years. In practice, non-commercial hunting organizations are hardly capable of competing with commercial ones in the auction process and will have to apply to hunt at market prices from successful leasers of hunting areas. Thus the law in fact limits access to hunting resources to certain groups of the population (though hunters are reserved the right to hunt within general hunting areas that should cover a territory not less than 20% from the total hunting areas in each federal region). The law (Art. 27)

explains this change by saying that auctions are aimed to attract investment into animal protection and secure better management of hunting areas.

The law also corrects certain administrative rules. All hunters as before shall have to obtain a hunting “passport” – a document certifying hunters’ skills, but now from state bodies of the federal regions rather than from hunting societies. Hunting licenses are replaced by a hunting permit – a document to be obtained by hunters from organizations- leasers of hunting areas or from regional state authorities, if hunting is to be done within general hunting areas. For the purpose of animal protection, the law introduces a new, quite complicated system of limitations in respect to the number of animals that may be hunted for. It comprises the overall norm (standard) of allowed taking of each species, hunting limits, and hunting quotas. The latter are approved for each hunting area and are determined in hunting agreements.

A further development in 2009 was the adoption of Federal Law No. 93-FZ on 8 May ‘On Organization of the Meeting of the Heads and the States and Governments – Participants of the Asia-Pacific Economic Cooperation Forum in 2012 and Development of the City of Vladivostok as a Center of International Cooperation in the Asia-Pacific region’ (Law on Asia-Pacific forum) without being fully an environmental one still concerns certain environmental aspects. The law on the Asia-Pacific Forum establishes special rules in relation, mainly, to building of necessary facilities and land use connected with them. The latter rules mainly concern taking and allocation of lands in Vladivostok and the isle Russkiy for the purpose Forum constructions, and establish exceptions from the general land taking procedure. In particular, it cuts the time for notifying land owners about takings from 1 year to 3 months. It also exempts these takings from the general rule on public hearing on land planning issues established by the Settlement Development Code. It allows the development of such facilities without planning documents. Such exemptions, contradicting the Civil Code and the Settlement Development Code triggered a number of legislative initiatives in the State Duma for changing the existing land use legislation in line with the above exemptions. At the moment, the attitude of experts to such initiatives is negative, as they are viewed as violation of public rights in connection with land ownership and use.