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## ENVIRONMENTAL LEGAL LIABILITY IN THE CONSTRUCTION FIELD

**Submission Date:** December 12, 2023, **Accepted Date:** December 17, 2023,

**Published Date:** December 22, 2023

**Crossref doi:** <https://doi.org/10.37547/ijlc/Volume03Issue12-11>

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### ABSTRACT

This article covers the issues of legal responsibility and its improvement in the legal protection of the environment in the field of construction. The article first analyzes the relevance of the topic, relevant shortcomings and problems in the field, as well as the practice of developed countries in this field. In the process of studying the subject, the existing legal framework was studied, the relevant shortcomings were identified, and innovative solutions for increasing legal responsibility and environmental protection were proposed. Based on the results of all the research, it can be briefly concluded that further to improve environmental legal responsibility in the construction sector, first of all, it is necessary to strengthen accountability measures, improve monitoring and reporting mechanisms, as well as actively involve non-governmental and non-profit organisations in the fight against violations of environmental norms. , as well as additions to some norms in the legislation will stimulate the further development of this field. In addition, the lack of appropriate incentive measures to ensure the friendly attitude of citizens or legal entities towards nature in the construction sector was recognized as one of the shortcomings of this sector.

### KEYWORDS

Ecology, environment, harmful waste, legal liability.

### INTRODUCTION

In today's world, where sustainable development and environmental protection have become a global priority, issues of legal responsibility and its improvement in the legal protection of the environment in the field of construction are of great importance. While the construction industry plays a decisive role in economic development, it often causes serious problems for the environment. Addressing these issues requires not only stakeholder

accountability for environmental impacts, but also a strong legal framework that encourages responsible and sustainable practices.

In our opinion, there is a lack of clarity regarding the legal responsibility of various stakeholders in the construction industry, which can lead to consequences such as non-compliance with environmental regulations.

Increasing legal responsibility in the field of construction can have a significant impact on the environment. For example, a study conducted by the World Green Building Council showed that green buildings can reduce energy consumption by 50%, water use by 40%, and carbon emissions by 35% compared to traditional buildings. This highlights the importance of increasing legal liability in the construction industry to facilitate the introduction of sustainable construction practices.

This study, devoted to the issues of legal responsibility and its improvement in the legal protection of the environment in the field of construction, covers many aspects and is aimed at a deep analysis of the topic, in addition, appropriate solutions and proposals are also given. Relevant literature on legal responsibility and environmental protection in the field of construction was thoroughly studied and analyzed. The available current legal base, relevant judicial practices and scientific works, articles in this field, and various official sites were used. A comparative analysis of the legal framework and practice in different jurisdictions was conducted to determine the best practices and potential directions for improvement in the legal protection of the environment in the field of construction. This involved studying legal systems and regulatory approaches in different countries and regions.

Based on the results of the literature study, data collection, comparative analysis and other research, recommendations on improving legal responsibility and environmental protection in the construction sector were developed.

## **MATERIALS AND METHODS**

The scientific research carried out on this topic is aimed at solving complex and urgent tasks related to

environmental protection in the field of construction. In the course of the study, the existing legal base was studied, relevant shortcomings were identified, and innovative solutions for increasing legal responsibility and environmental protection were proposed.

The study began with a study of current regulations governing environmental protection in the construction industry, including local, national, and international laws, regulations, and standards. This analysis showed that although there are various legal documents on environmental protection, there are still serious shortcomings in the enforcement, compliance and accountability mechanisms in the construction industry. One of the main problems identified is the lack of clear legal responsibilities between stakeholders involved in construction projects, such as developers, contractors, architects and government agencies. Ambiguities in legal obligations often lead to disputes, confusion, and ultimately environmental damage. In the study, examples of damage caused to the environment as a result of construction activities were studied, and it was emphasized that it is necessary to improve legal clarity and responsibility.

It was found that the insufficient level of monitoring and reporting mechanisms hinders the detection and elimination of environmental violations and increases the negative consequences for the environment. To solve these problems, several recommendations on increasing legal responsibility and environmental protection in the field of research and construction were proposed. These recommendations included establishing comprehensive environmental impact assessment procedures for construction projects, implementing strict monitoring and reporting requirements, and including clear legal responsibilities in contracts and agreements between project stakeholders.

The topic of legal responsibility in the legal protection of the environment in the field of construction and its improvement is a complex and multifaceted issue that requires in-depth analysis. To fully understand and solve this topic, a comprehensive and strategic approach to research methods, methodology and research objects is necessary. First of all, the choice of research methods on this topic should be carefully considered to ensure the validity and reliability of relevant facts. Qualitative methods such as an in-depth analysis of the literature and the study of the opinions of relevant persons in the field can provide in-depth information about various legal, environmental and construction-related problems. On the other hand, quantitative methods such as statistical analysis and surveys can offer numerical data to support qualitative research. Using a mixture of both methods, the study captures the subtle and complex dynamics of legal liability and environmental protection in the construction industry.

In this case, the selected research methods, methodology and research objects are clear. By applying qualitative and quantitative methods, introducing a multidisciplinary approach and solving various research objects, the research allows for a reliable and comprehensive analysis of the issues of legal responsibility and its improvement in the legal protection of the environment.

## **RESULTS OF THE RESEARCH**

The subject of legal responsibility and its improvement is of great importance in the legal protection of the environment in the field of construction. The construction industry is one of the largest contributors to environmental degradation, accounting for approximately 40 per cent of global energy consumption and 30 per cent of greenhouse gas emissions. The construction industry is also

responsible for the depletion of natural resources, deforestation and habitat destruction. Therefore, it is necessary to have a legal framework that ensures that construction works are carried out in an ecologically sustainable manner. However, there is no consensus on how to achieve this goal. Some scientists say that the solution to this problem is the development of new technologies that reduce the impact of construction activities on the environment, while others say that the key to improving environmental protection in the construction industry is to introduce an effective legal framework that holds contractors accountable for their actions. According to the United Nations Environment Program (UNEP) report, the construction industry has the potential to reduce its carbon footprint by 84 gigatons of CO<sub>2</sub> by 2052. This is equivalent to 22% of the total carbon emissions needed to limit global warming.

Therefore, it is very important to solve the issue of legal responsibility and its improvement in the legal protection of the environment in the field of construction. In this way, we can ensure that the construction industry plays its role in mitigating the effects of climate change and protecting the environment for future generations.

The obtained scientific results show that several measures can be used to ensure the stability of ecology in the construction sector. These include increased fines, increased awareness of the population, the introduction of strict monitoring and reporting mechanisms, as well as the introduction of incentive mechanisms for entities that carry out construction works in an environmentally friendly manner.

## **ANALYSES OF RESEARCH RESULTS**

Penalties for violating environmental legislation in construction vary by country. For example, in common

law England, the Environment Protection Agency and local authorities are the main environmental regulators, issuing enforcement notices, clearance notices and most environmental legislation. may be fined and imprisoned for violation. The maximum penalty for cases brought before the Magistrates' Court is usually a fine of up to £50,000 and/or six months imprisonment. The maximum penalty for Crown Court cases is usually an unlimited fine and/or two years in prison. Civil penalties, including fixed monetary penalties and enforcement obligations, may also be imposed against entrepreneurs as an alternative to criminal prosecution for certain types of violations. In Europe, countries such as Denmark, France, and the Netherlands are leading in the introduction of environmental protection rules in construction. Germany, Belgium, Great Britain and Switzerland have introduced LIFE CYCLE ASSESSMENT (LCA) requirements for public projects and public buildings. So, how does the legislation of Uzbekistan look at this matter?

In the Republic of Uzbekistan, there is no concrete liability for environmental damage during the construction process. The Code of the Republic of Uzbekistan "On Administrative Responsibility" contains several similar norms. For example, in Article 88 of the Code, there are relevant sanctions for non-compliance with the requirements of atmospheric air protection when collecting combustible substances and building materials, burning these substances and materials, as well as non-combustible materials during construction and other works. given. In addition, there are several responsibilities regarding the relationship with construction waste.

#### **Several laws regulate this area, and these are:**

Law of the Republic of Uzbekistan "On Ecological Expertise", Land Code of the Republic of Uzbekistan,

Law of the Republic of Uzbekistan "On Nature Protection", Law of the Republic of Uzbekistan "On the Protection of Atmospheric" "On the Protection and Use of Flora", Law of the Republic of Uzbekistan "On Radiation Safety", Uzbekistan Law of the Republic "On Industrial Safety of Hazardous Production Facilities" etc.

Most breaches of environmental law in England are criminal offences and penalties can include fines and imprisonment. In other European countries, such as Denmark, France and the Netherlands, environmental regulations are strictly applied in construction. It is a complex issue whether we should consider a violation of environmental legislation in construction as a crime or not. While it is clear that environmental damage has serious consequences, it is also important to consider the intent of the company or individual responsible for the damage. In some cases, the breach may be intentional or a result of a lack of knowledge or resources. The decision on how to apply environmental legislation in construction depends on individual countries and their legal systems.

According to Article 75 of the Federal Law No. 7 "On Environmental Protection" dated January 10, 2002, property, disciplinary, administrative and criminal penalties for violations of the legislation in the field of environmental protection in construction in Russia liability is determined. More information about the type of liability for violations of environmental legislation in construction in Russia is provided in Article 246 of the Criminal Code of the Russian Federation and the Code of Administrative Liability of the Russian Federation. Violation of environmental requirements during project planning, technical and economic justification, design, placement, construction, reconstruction, commissioning, and commissioning of enterprises, facilities or other objects is the basis for appropriate prosecution.



One of the complex practical issues in law is the qualification of environmental violations as a criminal offence or an administrative offence. Similar elements can be identified in the Criminal Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation about environmental crimes and violations. The Code of Administrative Offenses of the Russian Federation “On the Failure to comply with environmental requirements in project planning, feasibility study, design, placement, construction, reconstruction, commissioning, operation of enterprises, structures or other objects” and “Violation of the rules of environmental protection during work production” in the Criminal Code of the Russian Federation can be an example of this. In both cases, liability arises for violation of environmental protection rules, the only difference is that to qualify the act as a crime, harm to human health in the form of a significant change in the radioactive background, mass death of animals or other serious is the occurrence of harmful consequences. The difference between environmental crimes and administrative offences is manifested in the subjective side of their composition, in particular, crimes are characterized by the intentional form of guilt, while administrative offences that harm environmental safety can be committed mainly due to carelessness or damage. will be somewhat less.

China has a comprehensive legal framework for environmental protection, which is the Law of the People’s Republic of China “On Environmental Protection”. This law is designed to protect and improve the environment, prevent and control pollution and other public hazards, protect human health, and promote socialist modernization. The law stipulates that units that cause environmental pollution and other public risks must include environmental protection activities in their plans and create a system of responsibility for environmental

protection. Effective measures to prevent and control pollution and damage to the environment with waste gases, wastewater, waste residues, dust, foul-smelling gases, radioactive substances, noise, vibration and electromagnetic radiation generated during production and construction. it is also determined that they must see it. The authorized divisions of the Environmental Protection Department under the State Council carry out unified control and management of environmental protection works throughout the country. The competent departments of the environmental protection department of the local people's authorities at the district level or higher carry out unified control and management of environmental protection works in the areas under their jurisdiction. China updated its environmental protection law in 2015 to impose tougher penalties on “builders” of pollution.

The most important point of this law is that even non-governmental non-profit organizations are allowed to file lawsuits against construction entities in the interest of the public. We believe that reflecting the same proposal to the legislature of the Republic of Uzbekistan can create the ground for more non-governmental organizations to “take action” in this field. In addition, China has introduced a mechanism to reward individuals who help improve the environment, especially those who detect and report pollutants. This, without a doubt, motivates both the state sector and the non-state sector to play an important role in this regard.

If we look at the experience of Japan, it can be noted that the environmental protection laws are divided into several special groups. Japan has a Basic Environmental Law, which is designed to protect the environment and help create a sustainable society. The law requires government, businesses and individuals to work together to protect the environment and help create a sustainable society. It also requires enterprises

to take measures to prevent environmental pollution and minimize the impact of their activities on the environment. Japan has also enacted several environmental protection laws and regulations, including the Air Pollution Control Law, the Water Pollution Control Law, and the Waste Management and Public Sanitation Law. These laws and regulations establish environmental quality standards and require enterprises to take measures to prevent and protect the environment.

In the United States, environmental protection regulations in construction are enforced by the Environmental Protection Agency (EPA). The EPA sets guidelines for the discharge of pollutants into water in the United States, and failure to comply with local and federal environmental requirements can result in significant financial penalties, civil actions, and even criminal prosecution.

The construction industry is a major contributor to environmental pollution, and many countries are implementing various regulations to reduce its impact. According to the World Economic Forum, the construction industry should adopt a clear definition of what net zero carbon means, and the industry should adopt a lifetime carbon assessment and set clear targets for the sector's decarbonisation. The report also notes that cities the size of Paris are built every week, but less than one per cent of them are assessed for carbon footprints.

## CONCLUSIONS

Based on the above analysis, in our opinion, we can divide the impact of environmental regulations on the construction industry into several classifications:

1) Environmental impact of construction activities: The construction industry is resource-intensive and can cause various environmental impacts, such as habitat

destruction, soil erosion, air and water pollution, and deforestation. If effective legal measures are not taken, these actions can cause long-lasting environmental damage.

2) Measures that threaten legal liability: Clearly defined legal liability serves as a deterrent to environmentally harmful practices. Construction companies and individuals involved in the industry can use sustainable methods and technologies if they know that they can be held legally responsible for any environmental damage caused during their activities.

3) Regulatory compliance: Improved legal protection ensures that construction projects comply with applicable environmental regulations and standards. It provides a framework for preventing, monitoring and enforcing compliance with unauthorized or negligent actions that may harm the environment.

4) Responsibility for environmental restoration: Legal frameworks should create mechanisms to hold parties responsible for environmental damage. This includes environmental restoration provisions that require responsible parties to restore or mitigate negative impacts caused by their construction activities.

5) Encouraging sustainable environmental practices: Legal systems should encourage the adoption of sustainable practices by promoting environmentally friendly construction methods. These include tax incentives, regulatory incentives, or preferential treatment in the procurement process for companies that demonstrate a commitment to environmental responsibility.

6) The participation and transparency of interested parties: Legal frameworks should facilitate the involvement of various interested parties, including local communities and environmental organizations, in decision-making processes related to construction

projects. Transparency of the permitting and approval process ensures adequate resolution of environmental issues.

There are also some suggestions for improving the legislation.

In particular, the penalties for violations committed during the construction process should be strengthened. In particular, it is necessary to include in the Criminal Code of the Republic of Uzbekistan the norms of “Failure to comply with the requirements of atmospheric air protection”, which will ensure that criminal liability is introduced against persons who have repeatedly committed Article 88 of CAL (Code on administrative liability) or caused a large amount of damage.

In addition, monitoring and reporting mechanisms need to be strengthened. In this case, we believe that the permission given by the citizens should not be obtained by the party constructing the building, but by the relevant body after explaining the consequences of the future construction to the citizens.

In addition, we believe that the transfer of legal action to non-governmental organizations will help prevent such crimes in the country. If we present this authority not only to state bodies but to other sectors, we believe that we would greatly help ourselves in achieving the strong monitoring system that we are proposing. That is, we believe that it is necessary to amend Article 215 of the Criminal Code as follows:

“Supervisory bodies shall have the right to apply to the courts with applications for the application of legal measures. Non-governmental and non-profit organizations can also apply for the termination of the activities of objects that hurt the natural environment.”.

We can say that the lack of appropriate incentive measures to ensure the friendly attitude of citizens or legal entities towards nature in the field of construction creates the possibility of violations of laws in this field. Therefore, contractors and citizens who set a good example in construction and use environmentally friendly materials should receive appropriate privileges in this regard. This can have a positive effect on the reduction of law violations in the field and, most importantly, on the stability of the environment.

## REFERENCES

1. United Nations Environment Programme. Promoting Environmental Rule of Law. Available at: <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/promoting-environmental-rule-law-0>.
2. International Law Commission. Draft articles on the conservation of biodiversity in areas beyond national jurisdiction. Available at: [https://legal.un.org/ilc/sessions/73/pdfs/english/poe\\_iucn.pdf](https://legal.un.org/ilc/sessions/73/pdfs/english/poe_iucn.pdf).
3. DMH Stallard LLP. Penalties for Breaching Environmental Legislation. Available at: <https://www.dmhstallard.com/news-insights/blog/penalties-for-breaching-environmental-legislation>.
4. Structures Insider. Environmental Regulations in Construction 2022: What's Changing. Available at: <https://www.structuresinsider.com/post/environmental-regulations-in-construction-2022-what-s-changing>.
5. Legalacts.ru. Federal Law on Environmental Protection, Chapter XIV, Article 75. Available at: <https://legalacts.ru/doc/FZ-ob-ohrane-okruzhajuwej-sredy/glava-xiv/statja-75/>.

6. Spravochnik.ru. Liability for Violations of Environmental Legislation. Available at: [https://spravochnik.ru/pravo\\_i\\_yurisprudenciya/ekologicheskie\\_pravootnosheniya/otvetstvennost\\_za\\_narushenie\\_zakonodatelstva\\_v\\_oblasti\\_ohrany\\_okruzhayushey\\_sredy/](https://spravochnik.ru/pravo_i_yurisprudenciya/ekologicheskie_pravootnosheniya/otvetstvennost_za_narushenie_zakonodatelstva_v_oblasti_ohrany_okruzhayushey_sredy/).
7. China.org.cn. China's Environmental Laws and Regulations. Available at: <http://www.china.org.cn/english/environment/34356.htm>.
8. China.org.cn. China's Efforts in Environmental Protection. Available at: <http://www.china.org.cn/english/2004/Mar/88988.htm>.
9. International Union for Conservation of Nature (IUCN). New Legal Protections for the Environment in Relation to Armed Conflict. Available at: <https://www.iucn.org/story/202207/new-legal-protections-environment-relation-armed-conflict>.
10. Levelset. Environmental Regulations in the Construction Industry. Available at: <https://www.levelset.com/blog/environmental-regulations-construction/>.
11. World Economic Forum. The Construction Industry Doesn't Know Where It Stands When It Comes to Carbon Emissions. Available at: <https://www.weforum.org/agenda/2021/07/construction-industry-doesn-t-know-where-it-stands-when-it-comes-to-carbon-emissions/>.
12. The Conversation. Punishing the Polluters: Why Large Fines Are an Important Step Towards Cleaner Corporations. Available at: <https://theconversation.com/punishing-the-polluters-why-large-fines-are-an-important-step-towards-cleaner-corporations-115727>.
13. The Guardian. Building Works Responsible for 18% of UK Large Particle Pollution. Available at: <https://www.theguardian.com/environment/2022/oct/21/building-works-responsible-for-18-of-uk-large-particle-pollution>.
14. World Economic Forum. 5 Critical Incentives That Could Protect Nature and the Climate. Available at: <https://www.weforum.org/agenda/2021/11/5-critical-incentives-that-could-protect-nature-and-the-climate/>.
15. World Economic Forum. Net Zero: Risks, Benefits, and the Climate. Available at: <https://www.weforum.org/agenda/2022/02/net-zero-risks-benefits-climate/>.