

LETTER TO THE EDITOR

Influence of Administrative Litigation on the Modeling of Index Parameters of the Legal Mechanism of Ecological Environment Compensation

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In order to alleviate the problem that compensation is not in place or is not sufficient, or that the beneficiaries of compensation are out of step with those in need of compensation, this paper puts forward the analysis of the influence of administrative litigation on the index parameters of the legal mechanism of ecological environment compensation. This paper analyzes the legal mechanism of ecological environment compensation from three aspects: the system of environmental administrative compensation, the legal essence of ecological compensation and the characteristics of ecological environmental compensation. The conceptual model of the ecological compensation mechanism is based on the analysis of the elements of the ecological compensation mechanism and the system structure, and the conceptual model of the ecological compensation mechanism is constructed. Through the experimental analysis, when constructing the ecological compensation mechanism, we can not construct a kind of system which can only accord with the single ecological compensation goal from the angle of an isolated ecological environment problem. Moreover, we can not try to solve the complex ecological environment problems in the operation of eco-economic system with a kind of institutional arrangement.

Administrative Litigation; Ecological condition; Compensate; Legal mechanism; Index parameter

1 Introduction

The problem of ecological compensation is an urgent problem to be solved in ecological construction. In reality, many developers and users of environmental resources have given environmental cost to the society; at the same time, almost all the beneficiaries of ecological construction have not paid the “benefit fee” to the ecological builder. According to the principle of “who benefits, who compensates, who destroys, who recovers,” environmental spoilers and beneficiaries of ecological construction should pay for ecological protection (Yang and Sun 2018). At present, although China has carried out various forms of ecological environment compensation in the process of ecological construction, there is still a lack of standardized legal mechanism of ecological environment compensation. Due to the imperfection of the legal mechanism, there are still many difficulties in the national and local compensation work, and many of the work can not be carried out in full accordance with the law, which leads to the problem that the compensation is not in place, is not sufficient, or the beneficiaries of compensation are out of step with those in need of compensation. Therefore, it is of great theoretical and practical significance to study the ecological environment compensation mechanism in a comprehensive and systematic

way.

Nowadays, the importance of environmental protection has been generally recognized by the general public, and the government has made more and more administrative acts in the process of performing environmental protection functions, which will inevitably infringe on the legitimate rights and interests of private subjects. At the moment, the necessity of the construction of the environmental administrative compensation system should be transported with the emergence of the real problems (Liu and Hu 2019).

Yanhua Yan published an article in 2019 in the journal *Ekoloji*, Issue 107, entitled “Ecological Regulation Method for Genetic Growth and Development of Plant Nutrient Molecular under Different Nutrient Conditions”. Aiming at the problems of low coincidence between current methods and actual results, the ecological regulation methods for genetic growth and development of plant nutrient molecular under different nutrient conditions are mainly studied. The gene control network for genetic growth and development stage transformation of plant nutrient molecular is constructed, and the biomass distribution is analyzed, including allometric growth theory and optimal distribution theory. The results show that the rooting rate of plant is higher after the growth and development of plant nutrient molecular is ecologically regulated, and the results of eco-regulation are in good agreement with the actual results. (Lagidze et al., 2017) At the same time, the discussion results of high survival rate of plant are obtained, which verifies the effectiveness of the eco-regulation method for genetic growth and development of plant nutrient molecular. On this basis, the administrative litigation is introduced, and the ecological environment is analyzed.

Chinese scholars have put forward a variety of views on the concept of ecological compensation (Tong et al. 2017). For example, Zhang Zheng regards ecological compensation as paying compensation to ecological environment victims, and holds that ecological compensation fee is a fee levied to control ecological damage. Zhuang Guotai and others believe that “Ecological compensation is aimed at preventing the destruction of the ecological and natural environment, and is engaged in production, management, and developers that have or can have adverse effects on ecology and the natural environment”. The environmental management system, which is the main content of the improvement and restoration of the ecological and natural environment, is based on the regulation of the economy and the law as the guarantee condition. The ecological compensation is the buffering and compensation effect of the natural ecosystem on the ecological damage caused by the social and economic activities.

The focus of this paper is to put forward the idea of perfecting the legal mechanism of ecological environment compensation in China. This paper expounds the legal system of constructing the ecological environment compensation, analyzes the influence of the administrative litigation on the index parameters of the legal mechanism of the ecological environment compensation, so as to improve the legal mechanism of the ecological environment compensation in China and realize the harmonious development of human and nature.

2 Idea Description

2.1 Subject and object of Ecological compensation

Under the premise that the ecological environment situation is becoming more and more serious, the government, enterprises (including other organizations) and groups (including individuals) revolve around how to effectively solve the ecological environment problems and how to exchange lower environmental costs for faster economic development. The game of interest is carried out, and ecological compensation is the result of this game of interest. In this interest game, under the premise of taking into account the benefits of ecological environment and social benefits, and in accordance with the principle of maximizing their own interests, choosing the better

strategy rationally and try our best to reduce the environmental cost that one should bear in the process of ecological compensation (Yang and Fu 2018). Therefore, the interest game developed by the government, the enterprise, the group and other different economic subjects around the right to development and the environmental right is the essential characteristic of the relationship between the ecological compensation and the main body, which is shown in Figure 1.

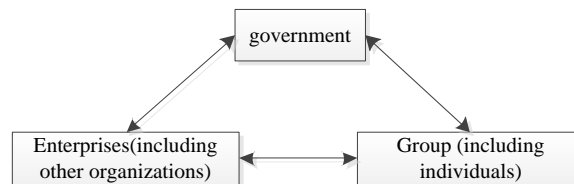


Figure 1 The Game Relation of the Main Body of the Ecological Compensation

The key to the construction of environmental administrative compensation system lies in the reasonable limitation and control of the rights of environmental administrative subjects, which can protect the vital interests of the people in a vulnerable position, and then realize the harmonious and orderly development of society. Today, the State attaches great importance to human rights and the protection of human rights by law is of particular importance. Therefore, the idea of human rights as the core is reflected in the environmental problem, if the rights and interests of the public are infringed, they will get the legitimate compensation and assistance they deserve. However, the new environmental accidents frequently occurred in recent years have particularity and complexity, and the environmental administrative subject can not be solved successfully with the help of the traditional civil legal system when exercising its functions and powers.

2.2 The legal essence of ecological compensation.

Although it is now in the twenty-first century, the effects of the centralized mode on our application are still not completely eliminated. The most important performance is that administrative power is still concentrated in all aspects of social life. From the point of view of the angle of environmental protection, in the face of collective and national interests, individual interests must be subject to the public environmental interests and ecological interests at the national and collective levels, which has a certain degree of adverse impact on the protection of individual interests. Therefore, in a sense, the administrative power of the government does not pay enough attention to the protection of the basic rights and interests of the general public.

Therefore, it is a powerful measure to solve the current practical problems to study the problems faced by the construction of environmental administrative compensation system from the legal point of view, and to put forward effective suggestions (Sun et al. 2019). Because of the defects of the mainstream thought, when formulating the laws or policies on environmental administrative compensation, we must first be people-oriented, on the one hand, to protect the national interests, on the other hand, to attach importance to and reasonable protection of the personal interests of the general public.

2.3 Characteristics of Ecological Environment compensation

(1) Ecological environment compensation is the compensation for the special sacrifices in the protection of the ecological environment caused by legitimate acts.

Ecological environment compensation is paid by beneficiaries, including government subjects and market subjects, to make up for areas and citizens who make special sacrifices or lose development opportunities because of environmental protection. The compensation given by the administrative subject of environmental resources must be premised on the legitimate administrative act. The major premise of ecological environment compensation for the sake of public interest is that the special loss suffered by a specific person without

obligation is regarded as an element of compensation for the sake of public interest. The State's obligations to ordinary citizens for the burden of fair distribution shall not be compensated based on the actual existence of losses, and the occurrence of losses must have a causal relationship with the lawful acts of environmental administrative subjects.

(2) Ecological environment compensation is the compensation for the loss of ecological environment function.

As far as environmental pollution is concerned, the essence of environmental problems is that pollutants enter the environmental medium, which exceeds the pollution capacity and self-purification capacity of the environmental medium, resulting in the decline of environmental quality. As far as environmental damage is concerned, the root cause of environmental problems is that the amount of natural resources that people mainly refer to as living natural resources exceeds the limit of maintaining ecological balance, resulting in the depletion of natural resources. Through the above analysis of the characteristics of ecological environment compensation, the author defines the ecological environment compensation mechanism in a narrow sense, which refers to the compensation for ecological function or ecological value. That is, the economic compensation of units and individuals who pay the price and sacrifice to protect the ecological environment and its function. In a broad sense, ecological environment compensation should also include financial, technical, physical compensation, policy preferences and scientific research to improve the level of environmental protection for residents in areas where development opportunities have been lost as a result of environmental protection. Expenditure on the cost of education.

(3) The importance of strengthening the consciousness of evidence in environmental administrative punishment from the administrative litigation.

Whether an administrative penalty can withstand the test of history can not be withdrawn or changed in the case of administrative reconsideration. Evidence plays an important role in whether the administrative department of environmental protection can remain invincible in administrative litigation. This paper discusses the importance of strengthening the evidence consciousness of environmental administrative law enforcement personnel on the issue of proof in the process of administrative litigation. In the administrative penalty, the legal status of both parties is not equal. This is mainly reflected in the fact that the power of administrative punishment is a kind of public power with national coercive force. There is no administrative punishment without administrative violation; And any one administrative penalty must have solid evidence. In the administrative penalty, we must be adhered to the principle of "Forensics, post-punishment". "pre-emptive evidence" refers to the need to obtain documentary evidence, material evidence, audio-visual materials, witness testimony, party statements and other evidence as comprehensive and accurate as possible before making a decision on punishment.

Based on the analysis of the elements and system structure of ecological compensation mechanism, the conceptual model of ecological compensation mechanism is constructed.

The model qualitatively describes the operation mode of the ecological compensation mechanism and the relationship between the subsystems. The ecological compensation mechanism is a negative feedback mechanism for regulating the development of the orderly evolution of the ecosystem and the economic system, to promote the restoration of the self-organization function of the ecosystem and to provide the ecological products (service) continuously and stably, to improve the interests of different subjects in the economic system, and to realize the harmonious and sustainable development of the economic and social system (Zhou et al. 2017).

3 Results

The establishment of environmental administrative public interest litigation system depends not only on the perfection of the basis of administrative law, but also on the legal environment of the country, including the

degree of understanding of the environmental administrative public interest litigation system and the degree of trust in the judicial organs.

When constructing the ecological compensation mechanism, we can not construct a kind of system which can only accord with the single ecological compensation goal from the point of view of an isolated ecological environment problem. Moreover, we can not try to solve the complex ecological environment problems in the operation of eco-economic system with a kind of institutional arrangement.

4 Discussion

Based on the concept of administrative compensation, this paper makes a detailed analysis of the theoretical basis of the environmental administrative compensation from the angle of law and the angle of economics, and then sums up the legal problems existing in the construction of the environmental administrative system. On the basis of this, the legal provisions on this system are introduced. At any time, good law and good governance is the only way to effectively solve practical problems. As researchers of the legal system, we should base ourselves on the actual situation of our country and the current situation, keep our eyes forward-looking, and sincerely hope that the environmental administrative compensation system can accumulate, sum up experience and constantly perfect the environmental administrative compensation system in continuous practice. Try to make the legislation perfect as much as possible.

5 Conclusion

Environmental right is the product of the deterioration of human environment and the strengthening of human environmental protection work, and it is an important achievement of legal response to environmental protection work. In the face of the harsh reality of environmental pollution, people gradually realize that the innate natural right to breathe fresh air is now being invisibly damaged and deprived. It is necessary for the society to make an institutional arrangement for the interests of the human, to give the subject a certain rights, to balance and restrict the relationship between the various micro-bodies due to the use of scarce environmental resources. In order to protect its own interests, people have also called on the polluters to respect the life rights of others, protect the environment and protect the environment from pollution.

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