

## Artículo de investigación

## The crimes that affect the animal and plant world: the problems of penalization

Los crímenes que afectan el mundo animal y vegetal: los problemas de la penalización

Os crimes que afetam o mundo animal e vegetal: os problemas da penalização

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### Abstract

The article analyzes the group of criminal law norms contained in Chapter 26 of the Criminal Code of the Russian Federation, providing for responsibility for crimes encroaching upon the animal and plant world, in the context of determining whether their sanctions correspond to the nature and degree of public danger of the acts. The paper emphasizes that the effectiveness of the application of criminal law in general, and the rules governing the crimes committed in the field of animal and plant life in particular, depends on many factors, including the problems of lawmaking. In this regard, the issues of legislative construction of sanctions of the relevant criminal law are considered. As a result of the analysis, it is concluded that most of the sanctions of the norms in question do not correspond to the nature and degree of public danger of prohibited acts, the principle of the systematic nature of their construction has been violated. As a result, it is stated that today the penalties imposed for crimes that infringe on the animal and plant world cannot be considered to be efficient.

**Keywords:** Animal and vegetal life, punishment, environment, penalization, penal sanctions, criminal liability, environmental crimes.

### Resumen

El artículo analiza el grupo de normas de derecho penal contenidas en el Capítulo 26 del Código Penal de la Federación Rusa, que establece la responsabilidad por los delitos que afectan al mundo animal y vegetal, en el contexto de determinar si sus sanciones corresponden a la naturaleza y grado de Peligro público de los actos. El documento enfatiza que la efectividad de la aplicación del derecho penal en general, y las reglas que rigen los delitos cometidos en el campo de la vida animal y vegetal en particular, dependen de muchos factores, incluyendo los problemas de la legislación. En este sentido, se consideran los temas de construcción legislativa de sanciones de la ley penal pertinente. Como resultado del análisis, se concluye que la mayoría de las sanciones de las normas en cuestión no se corresponden con la naturaleza y el grado de peligro público de los actos prohibidos, se ha violado el principio de la naturaleza sistemática de su construcción. Como resultado, se afirma que hoy las sanciones impuestas por delitos que infringen el mundo animal y vegetal no pueden considerarse eficientes.

**Palabras claves:** Vida animal y vegetal, castigo, medio ambiente, penalización, sanciones penales, responsabilidad penal, delitos ambientales.

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## Resumo

O artigo analisa o conjunto de normas de direito penal contidas no Capítulo 26 do Código Penal da Federação Russa, que prevê a responsabilidade por crimes que invadem o mundo animal e vegetal, no contexto de determinar se suas sanções correspondem à natureza e ao grau de criminalidade. perigo público dos actos. O documento enfatiza que a eficácia da aplicação do direito penal em geral, e as regras que regem os crimes cometidos no campo da vida animal e vegetal em particular, depende de muitos fatores, incluindo os problemas do processo legislativo. A este respeito, as questões de construção legislativa de sanções do direito penal relevante são consideradas. Como resultado da análise, conclui-se que a maioria das sanções das normas em questão não correspondem à natureza e grau de perigo público de atos proibidos, o princípio da natureza sistemática de sua construção foi violado. Como resultado, afirma-se que hoje as penalidades impostas por crimes que infringem o mundo animal e vegetal não podem ser consideradas eficientes.

**Palavras-chave:** Vida animal e vegetal, castigo, meio ambiente, penalização, sanções penais, responsabilidade criminal, crimes ambientais.

## Introduction

The current environmental situation on the planet is of grave concern throughout the world. Based on the data from numerous studies in the field of ecology, it can be concluded that no global environmental characteristic has improved in recent years. Absolutely all natural objects suffer from anthropogenic impact. For years the amount of pollutants has been racing up. The global air pollution affects the state of natural ecosystems, especially the earth's garment of green. One of the most visible indicators of the state of the biosphere are the forests and their general state. In particular, growth processes are inhibited, the development of plants significantly changes (flowering shifts, the vegetation period is shortened, and premature leaf fall occurs). The technogenic impact of industrial enterprises and the objects of public utilities has a detrimental effect on water quality and the state of water resources. Every year in the Russian Federation more than 16 billion cubic meters of impure wastewater have been dumped, more than 19 million cubic meters of pollutants – into the atmosphere (Raskina, 2012).

The development of industry and transport networks inevitably leads to an increase in anthropogenic pressure on land resources. It is determined according to expert estimates that up to 70-80% of all forest fires is man-caused (Zhadan, 2013). The forest fires in central Russia in the summer of 2010, which became an environmental disaster entailed great loss of life and multi-billion loss in the national economy, have clearly showed the need to strengthen the protection, including the protection of the criminal law and forest complex of the country

(Kaplunov, 2011). And this is only a scintilla of those indicators that illustrate the state of the environment; there are great many such examples. It should be said about a phenomenon such as poaching, which according to scientists, is not just one of the most common in the structure of environmental criminality (Bobkova, 2010), but also it in itself represents an increased public danger, and much less when it comes to talking about the Red Book animals, the number of which is already small and has been declining. Thus, according to expert estimates, about 300 white bears and over 400 brown bears, about 30-50 Amur tigers are bagged by poachers in Russia (Zhadan, 2013).

The fact that for a long time the criminal law policy on combating environmental crimes was developed taking into account the priority of economic needs over environmental ones and this circumstance has affected the state of the environment should, first of all, be attributed to the causes of the identified problems. In addition, the reasons include the shortcomings of the legislative regulation of this type of crime, the lack of an adequate economic basis for the preservation and improvement of the natural environment. A significant factor is the underestimation of the public danger of these crimes, since they still fall into the category of crimes of little and medium gravity. In comparison with the negative effects that they have on the natural environment, this situation, to put it mildly, is perplexing. After all, the criminal code contains the acts that constitute the greatest social danger, and criminal liability is the measure of last resort, the action of severity

(Lyubashits et al, 2016). In this connection, the main tasks facing punishment are reduced to the restoration of social justice, the reformation of a convicted person and the prevention from the commission of new crimes. According to the generally accepted theory of criminal law, the effectiveness of punishment is characterized by the degree of achievement of all the goals that are set for it. Any forced goal setting before the punishment always indicates a lack of effectiveness of such punishment. Correspondingly, the mandatory requirement for structuring criminal sanctions should be the conformity to their objectives of punishment. This is unlikely to be achieved today.

All the above indicates that the problem of nature conservation, including the animal and plant world, as its part, is one of the most important problems, the solution of which plays a significant role in criminal law. This is the reason for the choice of the research topic. We believe that the effective protection of the environment by the criminal legislation will be able to ensure, if it is uniform, purposeful and at the same time comprehensive in this area.

Apparently, realizing the importance of solving environmental problems, in recent years many scientists more and more often touch upon this theoretical and practical important topic. In particular, there are the studies covering: the problems of criminal liability for illegal catch of aquatic biological resources and illegal prey (for example, the dissertations of A. A. Dezhurny, A. I. Isaev, A. M. Kablov, S. E. Kalenov, A. M. Maksimov, O. M. Neudakhina, I. A. Parshina, V. G. Pushkarev, V. M. Radnaev, V. A. Cherepakhin, and others), forest conservation (D.V. Basaev, V.N. Kaplunov, A.A. Lachin, N.A. Sokolov, etc.).

The research topic we present in this paper is specific and original in that it covers the components of crimes infringing on the plant and animal world from the standpoint of the nature of their punishability, which allows for conducting a more thorough and detailed analysis of not just the very norms but also investigating their sanctions in terms of legislative regulation. In the process of establishing the character of the punishability of crimes, the legislator should ideally adequately reflect in the sanction the nature and degree of public danger of the prohibited action. Unfortunately, in fact, this adequacy has not been always achieved (Lyubashits et al, 2015). At present, the

theoretical foundations for constructing sanctions for criminal law have not yet been sufficiently developed, and in practice, one is often forced to resort to trial-and-error method in this area. Legal literature repeatedly focuses on serious discrepancies in the assessment by sanctions of the articles of the Criminal Code of the Russian Federation on kindred offences; the unjustifiably sharp distinctions in the sanctions of articles providing for related components of crime; the presence of excessive or, on the contrary, underestimated sanctions that do not correspond to the true nature and degree of public danger of prohibited acts; the mutual mismatch of sanctions (Korobeev, 2014). Similar inconsistencies also concern the sanctions of the rules on liability for crimes encroaching on the animal and plant world. Hence, there is the need for studying them.

In addition, the work takes into account all recent changes in criminal law in this area, related both to the criminalization of new crimes and to the changes in the sanctions of already existing norms.

The objectives of the study consist in the analysis of the relevant rules of the Criminal Code of the Russian Federation (Part 2 of Article 253, Articles 256-261), the opinions expressed in the criminal law doctrine to draft the proposals on improving the sanctions of the relevant criminal law to perfect the fight against environmental crime.

To achieve these goals, the following tasks are set: to analyze the sanctions of the norms on responsibility for crimes encroaching on the animal and plant world, to identify the problems and suggest the ways of solving them.

## Methods

Research work is based on the use of a set of methods, which leads to obtaining perfect and complete information. The methodological basis, in particular, consists of general logical methods (analysis, synthesis), dialectical, historical, logical-legal, comparative legal, statistical, sociological, expert assessments, documentary method, etc.

## Results and Discussion

To the encroachment on the animal and plant world, we refer primarily Article 256 of the Criminal Code "Illegal prey of aquatic biological resources", Article 258 of the Criminal Code "Illegal hunting" and Article 258.1 of the Criminal Code "Illegal prey and trafficking of especially

valuable wild animals and aquatic biological resources belonging to species listed in the Red Book of the Russian Federation and (or) protected by international treaties of the Russian Federation”, as directly causing harm to animals by capturing them from their natural habitat, as well as Article 260 of the Criminal Code of the Russian Federation “Illegal cutting of forest vegetation”, Article 261 of the Criminal Code “Forest’s destruction or damage”, causing harm to the plant world. Here one can refer Part 2 of Article 253 of the Criminal Code “Violation of the legislation of the Russian Federation on the continental shelf and the exclusive economic zone of the Russian Federation”, which criminalizes the research, search, exploration and development of natural resources of the continental shelf of the Russian Federation or the exclusive economic zone of the Russian Federation, conducted without permission. According to the Federal Law “On the Continental Shelf of the Russian Federation” dated October 25, 1995 and the Federal Law “On the Exclusive Economic Zone of the Russian Federation” dated December 17, 1998, these actions are related to nonliving (mineral) resources, however, judicial practice interprets the rule broadly and brings to justice similar acts committed against living resources, in particular, equates the prey of living natural resources with the development. That is why we have referred this standard to the group of encroachments on the animal and plant world.

Here it should also be noted that this group of norms is one of the most used in practice among all environmental crimes. Thus, environmental crimes are mainly represented by illegal cutting of forest plantations (Article 260 of the Criminal Code of the Russian Federation) and illegal extraction of aquatic biological resources (Article 256 of the Criminal Code of the Russian Federation). Illegal hunting (Article 258 of the Criminal Code of the Russian Federation) and the destruction or damage of forest vegetation (Article 261 of the Criminal Code of the Russian Federation), significantly behind the first two, occupy the third position. The following is Article 258.1 of the Criminal Code of the Russian Federation (illegal extraction and trafficking of especially valuable wild animals and aquatic biological resources belonging to species listed in the Red Book of the Russian Federation and (or) protected by international treaties of the Russian Federation), introduced into the Criminal Code of the Russian Federation only in 2013 and now increasing in strength very actively. The practice of the remaining formulations is negligible.

The research topic can also include Articles 257 “Violation of rules for the protection of aquatic biological resources”, 259 “Destruction of critical habitats for organisms listed in the Red Book of the Russian Federation”, 262 “Violation of the regime of protection of specially protected natural areas” of the Criminal Code of the Russian Federation criminalizing encroachment on the animal world indirectly through animals’ habitat. Regarding the composition of Article 262 of the Criminal Code, violation of the regime can be expressed both in the illegal take of flora and fauna objects, and in other actions unrelated to the take of living organisms from the habitat, for example, in the illegal impact on the natural environment. Because of this, this *corpus delicti* will remain outside the scope of our research. It should also be noted here that the practice of applying these formulations tends to zero.

First turn to the crimes under Part 2 of Article 253, Articles 256, 258 of the Criminal Code. As we have already outlined above, Article 256 of the Criminal Code has the illegal take of aquatic biological resources, and Article 258 of the Criminal Code – illegal prey. The structures of the articles are similar and provide for the criminal liability for committing the indicated illegal actions in the presence of the indicators stated in paragraphs «а-г». These signs are the same in both compositions, with the only difference that paragraph «г» of Part 1 of Article 256 of the Criminal Code covers spawning sites, and paragraph «г» of Part 1 of Article 258 of the Criminal Code establishes responsibility for hunting animals and birds, the hunting for which is completely prohibited, due to the specifics of the subject of encroachment (aquatic biological resources and land animals) and places of encroachment (water and land). Part 2 of Article 253 of the Criminal Code is somewhat different, which stipulates responsibility for research, exploration and development of the natural resources of the continental shelf and the exclusive zone of the Russian Federation, conducted without permission. The article is formulated on the basis of a particular subject and place of the crime, meanwhile it is a question of poaching in all the mentioned compositions.

Before proceeding to the analysis of the sanctions of the designated norms, we note that the Federal Law of 07/03/2016 amended to Article 256 of the Criminal Code of the Russian Federation, which, firstly, changed the size of the sanctions of both the main and qualified components in the direction of increased

punishment, secondly, the size of the damage was differentiated into major and heavy, thirdly, the concept of major and heavy damage was clarified in the notes. It is to be immediately recalled that a similar sign (major damage) is present in Part 1 of Article 258 of the Criminal

Code of the Russian Federation, while the indicated changes did not affect this corpus delicti.

So, in the course of a comparative study of the sanctions of the norms indicated, the following tendencies can be seen (Table 1).

Table 1. Comparison of the Types and Admeasuring of Penalties in the Sanctions of Articles Providing For Responsibility For the Crimes Encroaching on the Animal World

Punishment	Part 2 Article 253	Part 1	Part 3	Part 1	Part 3	Part 1	Part 2
		Article 256 (before amend ments in 2016)	Article 256 (before amendments in 2016)	Article 256 (after 2016)	Article 256 (after 2016)	Article 258	Article 258
Fine	From 100 to 500 thousand rubles or the period from 1 to 3 years	From 100 thousand to 300 thousand rubles or the period from 1 year to 2 years	From 100 thousand to 500 thousand rubles or the period from 1 year to 2 years	From 100 thousan d to 500 thousan d rubles or the period from 2 to 3 years	From 500 to 1 mln rubles or the period from 3 to 5 years	About 200 thousand of rubles or the period for about 18 months.	From 100 thousand to 300 thousand rubles or the period from 1 to 2 years
Community service	Up to 480 hours	Up to 480 hours				Up to 480 hours	
Corrective labor	Up to 2 years	Up to 2 years		Up to 2 years		Up to 2 years	
Compulsory labor			Up to 2 years				Up to 2 years
Arrest		Up to 6 mec.				Up to 6 mec.	

Imprisonment		Up to 2 years	Up to 2 years	From 2 to 5 years	Up to 2 years
Deprivation of right to take up certain posts or to engage in specified activity	It is possible as an additional form of punishment for up to 3 years	It is possible as an additional form of punishment for up to 3 years		It is possible as an additional form of punishment for up to 3 years	It is possible as an additional form of punishment for up to 3 years

As we can see, before making amendments to Article 256 of the Criminal Code of the Russian Federation, the list of possible alternative types of punishment in the studied norms is absolutely identical, which is quite logical, since all of them concern the protection of animals and their compositions are similar in many ways; the amount of the punishments coincided with the exception of the fine, which according to Part 1 of Article 258 of the Criminal Code has already been somewhat lower. And besides, it did not have and does not have a lower limit, and this means that the court can set the minimum amount of the fine provided for by the General Part of the Criminal Code of the Russian Federation. And here we are not quite clear what determines these discrepancies.

In addition, speaking of fines, it seems that its size is very low. After all, on the basis of the goals of punishment, it should stimulate the perpetrator to restore the right that has been infringed, to expiate for the caused harm, thereby strengthening its educational orientation, helping to eliminate the causes of the crime committed and to omit such acts in the future.

It is no secret that illegal fishing is a very profitable business in our country., Russian fishery managers annually sell poached crab for more than \$ 1 billion only to Japan (Lopashenko, 2008). In comparison with the income that poachers receive from selling illegally caught products abroad, the fines levied on them are negligible. It is clear that it is easy for a poacher to pay them and continue his illegal business. The scientific literature notes that environmental crime is becoming more dangerous and more profitable: the so-called environmental trade (from smuggling and exporting the objects of the

animal and plant world listed in the Red Book to the illegal burial of radioactive, nuclear and other dangerous waste) begins to compete with the most remunerative and profitable types of criminal activity, such as drug business and arms trafficking (Kachina and Mironchik, 2014).

In this regard, we positively assess the changes in 2016 that occurred under Article 256 of the Criminal Code, which resulted in increased fine. However, it remains unclear why these changes affected only Article 256 of the Criminal Code, and the sanctions of Part 2 of Article 253, a fortiori Article 258 of the Criminal Code of the Russian Federation remained unchanged.

In connection with the above, in order to more effectively combat such acts, we consider it to be necessary to increase the size of the fine in the designated compositions, and to bring them in line with the degree of public danger of the acts committed, so that they adequately reflect the characteristics of the crime in question.

Further, it is the first thing you notice that the sanctions of the main compositions under study had not included the punishment of imprisonment until 2016. Accordingly, the most severe punishment for such actions was arrest, which could be imposed for up to six months. However, as is known, arrest as a type of punishment is currently not applied. This means that the punishment for the crimes in question could actually be applied either in the form of correctional labor, or compulsory labor, or a fine. In these cases, the severity of punishment, in our opinion, is clearly not consistent with the danger of the offense. A similar situation remains to this day relevant in relation to Article 258 of the Criminal Code. And Part 2 of Article 253 of



the Criminal Code of the Russian Federation in general does not even fix a formal type of punishment as arrest; here, the most stringent type of correctional work is imposed for a period of up to two years.

This type of punishment as imprisonment for a term of up to 2 years appeared in 2016 only in Part 1 of Article 256 of the Criminal Code. Despite the fact that the act is still a minor crime, the fixing of minimum terms of imprisonment is considered to be justified, since it will serve the achievement of the goal of general prevention and eliminate the illusion of impunity that existed to this day. We believe that Part 2 of Article 253 and Part 1 of Article 258 of the Criminal Code should also be supplemented with this type of punishment. Note that the proposals of this kind are increasingly considered in the scientific literature (Bratashova, 2011).

We now turn to the qualified component elements. The sanctions of both articles contain, as we see, a punishment such as imprisonment. However, the act provided for by Part 2 of Article 258 of the Criminal Code, still remains a minor offense, even if it is committed by a person using his official position or by a group of persons in a preliminary conspiracy or an organized group. Concerning the qualified corpus delicti, provided for by Part 3 of Article 256 of the Criminal Code, it has passed into the category of medium-gravity crimes, as it is now punishable up to 5 years in prison.

Further, in the light of the amendments made in Article 256 of the Criminal Code, we want to pay special attention to the sanction of Article 258.1 of the Criminal Code. It bears reminding that Article 258.1 is special in relation to Article 256 and 258 of the Criminal Code, as it provides for an additional specific corpus delicti – a special subject of encroachment (especially valuable animals), therefore, the sanction should be higher, since the act is more socially dangerous. In general, it is so. Now Part 1 comprehends a type of punishment as deprivation of liberty for up to 3 years, while a fine may be imposed only as an additional type of punishment. However, after having changed the sanctions of Article 256 of the Criminal Code of the Russian Federation there appear a number of questions.

If you look at Article 258.1 of the Criminal Code, we will see that there is a differentiation into a qualified one – in the case of a crime committed by an official, and a specially qualified one – if an organized group acted. In this case, in the first

case, this crime falls into the category of moderate severity and is punishable up to 5 years in jail, and in the second case, this is a serious crime providing for punishment of imprisonment up to 7 years.

So, according to Part 1 of Article 256 of the Criminal Code the maximum punishment is imprisonment for up to 2 years, 258.1 - up to 3 years; according to Part 3 of Article 256 of the Criminal Code (acts committed by an official, a group of persons by prior conspiracy, an organized group or causing especially major damage) – from 2 to 5 years, 258.1 of the Criminal Code (acts committed by an official) – up to 5 years; according to Part 3 of Article 258.1 (acts committed by an organized group) – from 5 to 7 years.

It turns out that the maximum punishment will be the same, as in the case of illegal catch of ordinary animals by an official (part 3 of article 256 of the Criminal Code), and of especially valuable endangered animals (Part 2 of Article 258.1 of the Criminal Code), and the minimum penalty in the first case will be even higher. It appears that according to Article 258.1 of the Criminal Code of the Russian Federation it is necessary to increase the sanctions in order to bring them in line with the degree of public danger of the acts committed.

The question also arises as to why have the legislator not provided for such a differentiation in Article 256 and 258 of the Criminal Code? Here the underestimation of the public danger of these crimes is immediately evident. In this regard, you should pay attention to one interesting point. Based on the rules of qualification and by virtue of direct instructions of the highest judicial body (Resolution of the Plenum of the Supreme Court of the Russian Federation “On the application by courts of legislation on liability for violations in the field of environmental protection and nature use” dated October 18, 2012), acts committed by employees whose legal status corresponds to the characteristics of the official, using his official position, should be qualified only by Part 3 of Article 256 of the Criminal Code or Part 2 of Article 258 of the Criminal Code without reference to Article 285, and the actions of persons performing managerial functions in commercial and non-governmental organizations, respectively, without reference to Article 201 of the Criminal Code. We turn to the sanctions of Article 201 and 285 of the Criminal Code. They provide, among other things, the possibility of imposing a sentence of

imprisonment. However, its maximum amount in them is four years, whereas according to Part 2 of Article 258 of the Criminal Code of the Russian Federation – two years. As a result of the noted legislative metamorphoses with the penalization of the studied group of crimes, the following picture can be observed: if the act of an official is qualified only according to Part 1 of Article 285 of the Criminal Code (or 201 of the Criminal Code), then the punishment may be higher than when committing the specified act involving poaching, that is, abuse of official position in illegal hunting will be the preferred composition in relation to Article 201 and 285 of the Criminal Code, which, in our opinion, is

incorrect. The sentence for the crime in question, on the contrary, should be tougher than the one contained in the sanction of the general rule. The way out of this situation may be an increase in the terms of imprisonment for these crimes. With reference to Article 258.1 of the Criminal Code, such problems do not arise.

Now consider the sanction of Article 258.1 of the Criminal Code and compare it with the sanction of Article 259 of the Criminal Code, where we are talking about the destruction of critical habitats, and as a result, about the death of entire populations of animals (Table 2).

Table 2. Comparison of the Types and Admeasuring of Penalties in the Sanctions of Articles Providing for Responsibility for Crimes that Infringe on Especially Valuable Wild Animals and Aquatic Biological Resources

Punishment	Article. 259	Part 1 Article 258.1	Part 2 Article 258.1	Part 3 Article 258.1
Fine	From 300 thousand to 500 thousand rubles or the period from 2 to 3 years	It is possible as an additional form of punishment for about 1 mln rubles or the period to 2 years	It is possible as an additional form of punishment for about 2 mln rubles or the period up to 5 years	It is possible as an additional form of punishment for about 2 mln rubles or the period up to 5 years
Compulsory community service	Up to 480 hours	Up to 480 hours		
Corrective labor		Up to 2 years		
Compulsory labor	Up to 3 years	Up to 3 years		
Arrest				
Imprisonment	Up to 3 years	Up to 3 years	Up to 5 years	From 5 to 7 years
Deprivation of the right to hold certain positions or engage in certain activities			It is possible as an additional form of punishment for up to 3 years	It is possible as an additional form of punishment for up to 5 years
Restraint of freedom	Up to 3 years лет	It is possible as an additional form of punishment for up to 1 year		It is possible as an additional form of punishment for up to 2 years

As we can see, the sanction of Article 259 of the Criminal Code of the Russian Federation is sufficiently lenient, this crime is classified by the legislator to the category of crimes of minor

gravity. Now let us consider Article 259 of the Criminal Code more thoroughly. For incurrance of responsibility under this article, not only perpetration of an act, i.e. destruction of critical



habitat but also the consequences in the form of death of populations of organisms listed in the Red Book are necessary. It turns out that rare animals are destroyed by destroying their habitat. If we destroy one Red Book animal, we qualify it according to Article 258.1 of the Criminal Code, destroy the population – according to Article 258.1 of the Criminal Code, we destroy the habitat, as a result of which the population dies, and not even one, - according to Article 259 of the Criminal Code. Moreover, the maximum punishment in all cases is imprisonment of up to 3 years. This situation is surprising to say the least. It seems that in this case the sanction of Article 259 of the Criminal Code should be significantly more severe.

Referring to Article 257 of the Criminal Code “Violation of rules for the protection of aquatic biological resources”, one can observe the same tendencies (this is, again, a minor crime), except that the punishment as deprivation of the right to occupy certain positions or engage in certain activities can be determined not only as an additional but also as the main form of punishment.

Rather remedial measures are prescribed in Articles 260, 261 of the Criminal Code of the Russian Federation concerning the protection of forests. Here, the aggravation of the punishment occurred a little earlier, in 2014 (table 3).

Table 3. Comparison of the Measures and Admeasuring of Penalties in the Sanctions of the Articles Providing for Responsibility for the Crimes that Encroach on the Safety of the Forest Fund.

Punishment	Part 1 Article 260	Part 2 Article 260	Part 3 Article 260	Part 1 Article 261	Part 2 Article 261	Part 3 Article 261	Part 4 Article 261
Fine	From 500 thousand rubles or the period up to 3 years	From 500 thousand. to 1 million rubles or the period from 3 to 4 years	From 1 million. to 3 mln. Rubles or the period from 4 to 5 years	From 200 thousand to 400 thousand rubles or the period from 1 to 2 years	From 300 thousand to 500 thousand rubles or the period from 2 to 3 years	From 500 thousand to 1 mln. Rubles or the period from 3 to 4 years	From 1 mln. to 3 mln rubles or the period from 4 to 5 years
Compulsory communitive service	Up to 480 hours			Up to 480 hours	Up to 480 hours		
Corrective labor	Up to 2 years			Up to 2 years	Up to 2 years		
Compulsory labor	Up to 2 years	Up to 4 years	Up to 5 years	Up to 3 years	Up to 4 years		
Imprisonment	Up to 2 years	Up to 4 years	Up to 7 years	Up to 3 years	Up to 4 years	Up to 8 years	Up to 10 years
Deprivation of right to take up certain		It is possible as an additional	It is possible as an additional				

posts or to	form of	form of
engage in	punishmen	punishmen
specified	t for up to	t for up to
activity	3 years	3 years

We see that quite substantial fines are fixed here, especially for qualified and specially qualified elements of a crime, now comparable to the sanction of Article 256 of the Criminal Code. It seems that the fines in Article 258 of the Criminal Code should be raised to such limits. In all cases we are talking about poaching and if these actions are committed by a group of persons in a preliminary conspiracy, an organized group, a person, using one's official position, in a big or especially big amounts, which entails a huge income, then tough measures are needed to make poaching fishing unprofitable.

It is also noteworthy that the punishment in the form of imprisonment appears in all components of crime, and the periods here are much higher than in other legally defined environmental crimes. As we can see, the cutting of forest vegetation on a large scale, by a group of persons by prior agreement or by an organized group, is attributed by the legislator to the category of grave crimes, while in all the components of crime we have previously examined (the exception is illegal by an organized group – Part 3 of Article 258.1 of the CL) such acts containing the indicated corpus delicti belong to the category of crimes of moderate gravity.

Considering the crime according to Article 261 of the Criminal Code, we note that its defined elements, which are expressed in the destruction or damage of forest vegetation and other plantations by arson, in another generally dangerous way or as a result of pollution or other negative impact, as well as causing major damage (Parts 3.4 of Article 261 of the Criminal Code of the Russian Federation) is also classified by the legislator as serious, which draws approval.

### Conclusion

An analysis of the sanctions of the relevant criminal law norms based on the methodologies outlined in this paper has exposed the following tendencies.

Attention should be paid to the formulation of the sanctions of the relevant norms in terms of their nature and the degree of public danger of prohibited acts. The current sanctions do not

hold water. The current situation in the field of nature conservation requires the application of more drastic measures of responsibility.

It seems necessary to increase the amount of the fine according to Part 2 of Article 253 and Article 258 of the Criminal Code of the Russian Federation and bring them into line with the degree of public danger of prohibited acts in order to make the criminal activity of the poachers economically unprofitable.

It is necessary to establish the minimum terms of imprisonment according to Part 2 of Article 253 and Part 1 of Article 258 of the Criminal Code of the Russian Federation, to increase them everywhere in qualified types by having converged these crimes to the category of moderate and serious crimes, having differentiated responsibility depending on the qualifying constituent element of a crime and observing the principle of systemic construction of penal sanctions. We also consider it necessary, taking into account the degree of public danger, to toughen the sanction of Article 259 of the Criminal Code, having converged the crime to the category of grave.

In general, in spite of some positive tendencies, the compositions of the articles providing for responsibility for encroachment on the animal and plant world need further improvement. Here the point is about the lack of consistency, a certain system in the formation of both criminal law prohibitions and the system of punishments. Indeed, one of the criteria for the effectiveness of criminal law is the observance of the principle of the system of law, which, among other things, means the internal unity, integrity and consistency of criminal law. One of the conditions of systematic criminal law is the scientific validity and consistency of the amendments made to it. Unfortunately, what we are observing today is in no way consistent with the designated principle. It seems that in order for the criminal-legal protection of animals to be carried out as efficiently as possible, more careful legislative work in this direction is needed.

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