Resumen. Cada año, los problemas ambientales se vuelven más agudos. Los cambios naturales y antropogénicos: el cambio climático, el uso indebido de los recursos naturales y la contaminación de los territorios, dan lugar a violaciones de la protección del medio ambiente y los derechos humanos. Se han cometido muchos crímenes y delitos ambientales y, como resultado, existe un número cada vez mayor de marcos normativos y prácticas judiciales sobre este tema, tanto a nivel estatal como internacional. Para entender adecuadamente los conceptos de derechos ambientales y delitos ambientales, es necesario considerar la práctica de los tribunales rusos e internacionales, identificar similitudes y diferencias en sus posiciones e identificar los motivos para establecer la responsabilidad por estas violaciones.

Palabras clave: ecología, derecho, derechos, corte, violaciones.

Abstract. Every year, environmental problems are getting more acute. Natural and human-induced changes - climate change, improper use of natural resources and pollution of territories, lead to violations of environmental protection and human rights. Many environmental offenses and crimes are committed, and as a result, there is an increasing number of regulatory frameworks and judicial practices concerning this issue, both at the state and international levels. In order to properly understand the concepts of environmental rights and environmental offenses, it is necessary to consider the practice of Russian and international courts, to identify similarities and differences in their positions, and to identify the grounds for establishing responsibility for these violations. Keywords: Lake Baikal, ecology, law, influence, human.
1. INTRODUCTION

Under the environmental rights of a person understands recognized and enshrined in the legislation of the rights of the individual, ensuring the satisfaction of various human needs when interacting with nature.

Ecological rights of citizens - is the totality of the rights of the individual enshrined in international instruments, the Constitution, special environmental and related legislation, that is, man and citizen, realized in the process of interaction with the environment and ensuring satisfaction of its basic needs in this area.

Environmental human rights belong to the group of fundamental natural (inalienable) human rights arising from the birth and terminating with the death of the individual, along with such fundamental rights as the right to life, freedom of speech and religion, personal inviolability, freedom of movement, choice of residence, etc.

It should be noted that the issue of environmental human rights in the world began to be actively discussed since the mid-sixties of this century, when many industrially developed countries of the West began to feel the consequences of the ecological crisis caused by excessive environmental impact and consumption of natural resources.

The political side of environmental human rights is reflected in the norms of international law, which are reflected in various declarations of human rights.

2. STATEMENT OF THE PROBLEM

Since the issues of nature management and environmental protection are classified in accordance with Article 72 of the Constitution of the Russian Federation to the joint jurisdiction of the Russian Federation and its subjects, in addition to federal normative legal acts, the issues of nature management and environmental protection are regulated by acts of the subjects of the Russian Federation.

So, on the territory of the Altai Territory, the Altai Territory Law No. 3-3C dated 01.02.2007 "On Environmental Protection in the Altai Territory" (hereinafter - the Law of the Altai Territory). The law defines the legal basis for Altai Krai's environmental policy aimed at ensuring the environmental security of the Altai Territory, maintaining a favorable environment, biological diversity and natural resources, and strengthening the rule of law in the field of environmental protection. This law determines the powers of state authorities, local governments in the field of environmental protection, fixes requirements in the field of environmental protection in the Altai Territory. Also, the Law of the Altai Territory regulates issues of state environmental supervision in the Altai Territory, industrial and public environmental control. A separate article of the Law of the Altai Territory is devoted to the system of information support of environmental protection, as well as liability for violation of legislation in the field of environmental protection. A number of by-laws have also been adopted in the Altai Territory.

Resolution of the Administration of the Altai Territory of October 23, 2014 No. 494 approved the state program of the Altai Territory "Environmental Protection, Reproduction and Rational Use of Natural Resources, Development of Forestry in the Altai Territory" for 2015 - 2020 and other acts.

Also, municipal programs for the protection of the environment, as well as acts of local self-government bodies dealing with environmental issues, assigned to them by the federal legislation, are adopted on the territory of municipalities.

The main source of rights and freedoms of citizens in Russia is the Constitution of the Russian Federation. Article 42 of the RF Constitution establishes the human right to a
favorable environment, reliable information about its condition and compensation for damage caused to its health or property by an environmental offense.

3. DISCUSSION

The European Convention for the Protection of Human Rights and Fundamental Freedoms does not contain provisions guaranteeing the rights to a favorable environment and other rights listed in Article 42. However, other provisions of this Convention apply to the protection of environmental rights, the understanding of which, like many other provisions of the ECHR, follows from the practice of the ECHR. For example, article 2 of the Convention contains the inalienability of the right to life, and article 8 affirms the inviolability of private life. Most often, Article 8 is used to protect environmental rights, which, when used in this area, is treated somewhat differently. In ECHR cases, Fadeeva v. Russia and Dubetskaya and Others v. Ukraine, as well as other cases from the practice of the European Court of Human Rights, it is stated that the Court can consider the case of environmental violations if they lead to a "significant deterioration of the possibility" the applicant to use his home, as well as to lead a private or family life.

In addition, the Court of Human Rights has broadened the understanding of Article 8 of the Convention even more, having established in the case of Dziwiuk v. Ukraine that if there is an exhaustive amount of environmental norms in the system of legislation of a particular country, then violation of Article 8 of the Convention.

An important role is played by the assessment of the negative impact resulting from the violation of environmental rights. In Resolution of the Plenum of the Supreme Court of the Russian Federation of October 18, 2012 No. 21 "On the application by the courts of legislation on liability for violations in the field of environmental protection and nature management," it is stated that in assessing the damage caused, the courts must proceed from the specific circumstances of the case, economic, social, historical, cultural, scientific significance, the ability of a natural resource for self-recovery, the quantity and value of exterminated, damaged components of the natural environment. So, in relation to human rights, a significant harm to human health is expressed in severe or moderate harm to the health of at least one person, and significant harm to the environment - in its contamination, poisoning or contamination, changing the radioactive background to the values posing a threat to human health or life, etc.

In the case from ECHR Fadeeva v. Russia, the European Court noted that the impact assessment "is relative and depends on all the circumstances of the case, for example on the intensity and duration of the offense, its material or mental results." It is also necessary to take into account the general environmental context.

Thus, the evaluation of the negative impact in both cases is relative and in each case must be calculated separately.

Russian legislation provides for the need for state intervention and the opportunity to protect the rights of citizens in the presence of any consequences for man and the environment, as well as the threat of such consequences.

The Decree of the Plenum of the Supreme Court No. 21 defines the threat of significant harm to health or the environment, namely, the existence of a situation in which harmful consequences can occur, the possibility of preventing which does not depend on the will of the person who violated environmental legislation. But this Decision also noted that to recognize the existence of such a threat, there is a danger of real harm.

In the practice of the European Court of Human Rights, the Court also found that in order to consider the issue of violations of the Convention that may occur in the future, that is, threats, a high probability of their occurrence is necessary. In the ECHR "Dubetzkaya and Others v. Ukraine" case, the Court added that a complaint about violations of the Convention, namely Article 8, is possible only if the
environmental threat reaches a level sufficient for serious deterioration of the right to use the home, and private and family life.

Article 174 of the Criminal Code of the Russian Federation, as well as the Decree of the Plenum of the Armed Forces, states that, in addition to violations related to causing significant harm to human health, there are violations related to causing harm to the environment. That is, the court considers both violations of the rights of citizens, and violations of environmental protection. In practice, the ECHR has established a practice that establishes the possibility of protecting exclusively human rights, but not the protection of the environment, and consequently, if its condition worsens, there is not always any derogation of the citizens' rights, which may be considered in the European Court. This is enshrined in the case of Kirtatos v. Greece, where the Court noted the absence of an independent right to environmental protection in the European Convention on Human Rights. To protect the environment, according to the court, it is more appropriate to use other methods. In this case, for example, "it remained unproven that the damage done to birds and other protected biological species that inhabited the swamp affected the applicants' rights in accordance with Article 8 of the Convention".

CONCLUSION

Thus, consideration in ECtHR of cases of harm or threat of harm to the environment is possible only in the relationship of the state of nature with violations of human rights.

Proceeding from the foregoing, it can be concluded that in the practice of the Supreme Court and the European Court of Human Rights there are similar positions regarding the need to protect environmental rights, assess damage caused by negative impact, the possibility of protection if there is a threat of high probability of causing such damage. The main difference between them is the absence in the ECHR's practice of the environment as an independent element as an object of protection.

REFERENCES


