

**International Symposium on Administrative Law and Administrative  
Jurisdiction**

**ISALAJ 2022**

**“Environment, Climate Change and Ecology in the Context of  
Administrative Law and the Law of Administrative Jurisdiction”**

**“In Memory of Prof Dr. İl Han Özay”**

**16-18 May 2022**

**SYMPOSIUM PROGRAMME**

**DAY 1 –MAY 16**

**10.00-11.00 – OPENING SPEECHES:**

- 1. Prof. Dr. Aydın GÜLAN** – Head of the Department of Administrative Law, Faculty of Law, Istanbul University, Head of the Administrative Law Research and Implementation Center named after Ord. Prof. Dr. Sıddık Sami Onar, Faculty of Law, Istanbul University (*Guest Speaker*)
- 2. Prof. Dr. Asuman YILMAZ** – Head of the Department of Commercial Law, Faculty of Law, Dean of the Faculty of Law, Istanbul
- 3. Prof. Dr. Yücel OĞURLU** – Head of the Department of Administrative Law, Faculty of Law, Istanbul Commerce University, Rector of Istanbul Commerce University

**11.00-12.00 – 1st SESSION: Right of Environment and Environmental Issues**

**Moderator: Prof. Dr. Aydın Gülan**

Prof. Dr. Selami DEMİRKOL	Faculty of Law, Department of Administrative Law, Istanbul Bilgi University, Former Member of Council of State	Administrative Jurisdictions’ Sensitivity on Right of Environment	Turkish
Assoc. Prof. Dr. Canan KÜÇÜKALİ	Labour Court Judge	World Intellectual Property Organization’S “Ecofriendly Invention” Approach	English
Research Assistant Murat HAS	Faculty of Law, Istanbul University	Right of Environment in the Context of Protection of Private Life	Turkish
İlayda OTER	Lawyer	A Critical Approach to the Human-Focused Environment Perspective	Turkish

Ayfer KAHRAMAN	Rapporteur Judge of Council of State	Analysis of Responsibility Caused by Environmental Pollution in the Framework of the Civil Code, Code of Obligations and Code of Environment.	Turkish
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**12.00-13.00 – Lunch Break**

**13.00-14.10 – 2nd SESSION: Environmental Responsibility of the Administration**

**Moderator: Prof.Dr. Melikşah Yasin**

Prof. Dr. Yücel OĞURLU	Faculty of Law, Istanbul Commerce University	Responsibility and Regulatory Authority of the Administration in the Field of Environment	Turkish
FM Dr. Fatma Didem SEVGİLİ GENÇAY	Faculty of Law, Maltepe University	Duty and Responsibility Issues in Forest Fires	Turkish
FM Dr. Seyithan KAYA, Research Assistant B. Onur KİREÇTEPE	Tokat Gaziosmanpaşa University	Determination of Liability and Compensation Procedure for Damages Envisioned or Unforeseen in the Environmental Impact Assessment Report	Turkish
TA Dr. Memduh Cemil ŞİRİN	Faculty of Law, Istanbul University	Possible Effects of Climate Change on the Regime of Governmental Responsibility in the Light of the Individual Application Decisions of the UN Committee on the Rights of the Child	Turkish
Yerik AKHMETOV PhD Candidate	L. N. Gumilev Eurasian National University	Basic Principles of Administrative Acts of the Republic of Kazakhstan	English
Research Assistant Dr. Selvi Nazlı GÜVENÇ, Research Assistant Hilal Yüksel MAAMER	Faculty of Law, Istanbul Commerce University	The Legal Nature of the Removal Responsibility of the Environmental Polluter According to Private Law	Turkish

**14.10-14.40 - BREAK**

## 14.40-15.50 – 3rd SESSION: A Global Perspective on Environmental Issues

**Moderator: Amir Aliyev**

Ayşe Didem SEZGİN	PhD Researcher	Evaluation of the Legal Basis of Ecological Integrity as a Paradigm Shift in Global Governance	English
Shirinov Anvar QANOATOVICH Senior Lecturer	Bukhara State University Uzbekistan	Implementing the Ecological Agenda in Uzbekistan	English
Samadova Sarvinoz Doctor of Philosophy	Bukhara State University Uzbekistan	The Legal Basis for Conserving the Environment-Changing Anthropocene Born in Uzbekistan	English
Belma ADILOVIĆ	University of Modern Sciences CKM Bosnia- Herzegovina	Ecological Impact of Digital Transformation under Administrative Law	English
Research Assistant Muratcan GÖKDEMİR	Faculty of Law, Istanbul Commerce University	The Place of the World Trade Organization in the International Legal Framework for Renewable Energy	Turkish
Maysa JUMASHOVA PhD Candidate	Istanbul Commerce University	Access to Sustainable Development: Green Economy	Turkish

## DAY 2 – May 17

### 10.00-11.10 – 4th SESSION: Controlling Environmental Issues and Energy

Moderator: Prof. Dr. Turan Yıldırım

FM Dr. Akın KARATAY	Faculty of Law, Istanbul Yeni Yüzyıl University	Investigation of the Precautionary Principle and Prevention Principle in Ecological Law from the Perspective of Environmental Law Enforcement	Turkish
FM Dr. Necip Taha GÜR	Faculty of Law, Yalova University	Preservation of Medicinal and Aromatic Plant Diversity and Evaluation of Utilization of These Products with the Dimension of Administrative Law	Turkish
FM Dr. Özge ATIL KAYA	Faculty of Law, Trabzon University	Environmental Ombudsmanship	Turkish
FM Dr. Nurhan YAPRAK	Faculty of Law, Istanbul Commerce University	Contest of the Administration's Energy Supply and General Health Protection Activity Specific to Nuclear Power Plants	Turkish
FM Dr. Mahmut CEYLAN	Recep Tayyip Erdoğan University	The Role of the Ombudsman Institution and the Necessity of the Environmental Ombudsman in Enabling the Right to the Environment	Turkish
Research Assistant Zeynep ÇELİK GÜLSEVEN	Faculty of Law, Istanbul Commerce University	Evaluation of Solar Energy Based Electricity Production in Terms of the Administration's Acts and Activities	Turkish

### 11.15-12.15 – 5th SESSION: Control of Disputes Based on Climate Change

Moderator: Prof. Dr. İdris Oğurlu

Prof. Dr. Süheyla Suzan GÖKALP	Ankara Hacı Bayram Veli University	Climate Change Litigation	Turkish
FM Dr. Bahadır APAYDIN	Faculty of Law, Maltepe University	Looking at Turkish Zoning Law from the Perspective of Climate Change	Turkish

FM Dr. Zeynep Nihal AYDINOĞLU YALÇIN	Faculty of Law, Kırıkkale University	Capacity Issue in Annulment Cases to be Filed in Administrative Jurisdiction Against the Regulations Regarding Climate Change	Turkish
Research Assistant Dr. Nida ERDEM-Research Assistant Neslihan ASLAN	Faculty of Law, Turkish-German University	The Temporal and Spatial Perspective of the Federal German Constitutional Court on Climate Change Measures	Turkish
TA Dr. Güven SÜSLÜ	Yaşar University	The Necessity of an Independent Administrative Authority in the Field of Climate Change	Turkish

### 12.15-12.45 – Lunch Break

### 12.45-13.55 – 6th SESSION: Climate Change and Administrative Law

Moderator: Prof. Dr. Nur KAMAN

Assoc. Dr. Cenk Yaşar ŞAHİN	Faculty of Law, Istanbul University	Zoning Planning on the Axis of EIA	Turkish
Işıl DEMİR	Judge of Istanbul Regional Court of Justice	Climate Change and Its Environmental Effects - Urban Planning	Turkish
FM Dr. Mine KASAPOĞLU TURHAN	Faculty of Law, Izmir Economy University	The Relationship Among Climate Change, Climate Justice and Administrative Law	Turkish
FM Dr. Onur KAPLAN	Faculty of Law, Yaşar University	Reserve Building Areas in terms of Providing Healthy and Safe Housing Environments	Turkish
FM Dr. Nergis KULAKSIZOĞLU MERCAN	İstanbul Ticaret Üniversitesi Hukuk Fakültesi	Debates on Ecological Crisis and the Right to the Environment	Turkish
Cemile ALPARSLAN	Lawyer	Role of Administration in Fighting Climate Change	Turkish

**14.00-15.10-7th SESSION: Environmental Law and Judicial Supervision of Environmental Disputes**

**Moderator: Dr. Öğrt. Üyesi Zebuniso KAMALOVA**

Assoc. Dr. Engin SAYGIN	Ankara Yıldırım Beyazıt University	Capacity to Sue for Annulment of Environmental Impact Assessment Decisions	Turkish
Assoc. Dr. Jordan DELEV	International Vision University, North Macedonia	Role of Macedonian Environmental Information Center in the National Environmental Protection System	English
FM Dr. Hayrettin YILDIZ	Yalova University	Subjective Capacity to Sue in Annulment Cases Regarding Environmental Protection	Turkish
FM Dr. Iğın ÖZKAYA ÖZLÜER	Ankara University	Reflections on Environmental Specialized Courts	Turkish
FM Dr. Melike Özge ÇEBİ BUĞDAYCI	Gendarmerie and Coast Guard Academy, Faculty of Security Sciences	Special Environmental Protection Areas in Administrative Law Perspective	Turkish
TA Alkım AKTAŞ	Gendarmerie and Coast Guard Academy	Actions for Annulment Regarding the Protection of the Environment within the Scope of Subjective Capacity to Sue	Turkish
Research Assistant Beyza GÖZ	Faculty of Law, Istanbul University	The Concept of Overriding Public Interest in Administrative Disputes Regarding Environmental Law	Turkish

## DAY 3 - MAY 18

### 10.00-10.50-8th SESSION: Miscellaneous Topics Related to Administrative Law

Moderator: Dr. Öğrt. Üyesi Kemale VALİYEVA

Prof. Dr. Indira SAKTAGANOVA	Eurasian National University, Kazakhstan	"New direction" in the Administrative Judicial System of the Republic of Kazakhstan	Kazakh
FM Dr. Pavel KURYNDİN	St Petersburg University	Public Transport in Russia: New Conditions and Challenges	Russian
Svetlana SURKOVA PhD Candidate	L. N. Gumilev Eurasian National University	Some Aspects of Administrative and Legal Protection of a Person Against Domestic Violence in Kazakhstan	English
Yerik AKHMETOV PhD Candidate	L. N. Gumilev Eurasian National University	Basic Principles of Administrative Acts of the Republic of Kazakhstan	English

### 10.55-11.35 9th SESSION: Reform Areas in Public Law

Moderator: Doç Dr Ganizhamal Imankyzy Kushenova

Zhassulan TOLEUOV PhD Candidate	L. N. Gumilev Eurasian National University	The Establishment of the Constitutional Court as an important step towards the formation of the "New Kazakhstan"	Russian
Alişer PERŞEEV PhD Candidate	L. N. Gumilev Eurasian National University	New Kazakhstan: Complaints in the Administrative Justice System	Kazakh
Akmaral Saktaganova PhD Candidate	Eurasian National University	"Professional legal awareness in the individual and collective legal awareness system"	Russian

## **11.15-12.15 – CLOSING AND VE REVIEW:**

1. **Prof. Dr. Aydın GÜLAN** – Head of the Department of Administrative Law, Faculty of Law, Istanbul University, Head of the Administrative Law Research and Implementation Center named after Ord. Prof. Dr. Sıddık Sami Onar, Faculty of Law, Istanbul University
2. **Prof. Dr. Yücel OĞURLU**- Head of the Department of Administrative Law, Faculty of Law, Istanbul Commerce University, Rector of Istanbul Commerce University



# LEGAL BASIS FOR PROTECTION OF ANTHROPOGENE-CHANGED NATURAL ENVIRONMENT IN UZBEKISTAN

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**Annotation:** This article analyzes the legal framework for the protection of anthropogenically changed natural environment in Uzbekistan. Anthropogenically changed natural environment refers to urban, industrial and agrarian (agricultural) areas, which provide a scientific analysis of the main causes of anthropogenic changes in the environment in these areas and on the basis of what normative legal acts protect such areas.

**Keywords:** environmental law, flora and fauna, epidemiological situation, utilization, natural resources

In many legal literatures, experts distinguish the object of environmental law - natural objects, natural resources and natural complexes, or objects that are integrated, differentiated and protected, and branched out in the national economy. However, in order for these authors to be the object of ecological law, correctly described that it should be the element of the environment must be of natural origin, be part of the ecological system, meet the economic, ecological, cultural, social, political needs of people and ensure the quality of living environment. Another aspect of them is that these facilities should be regulated by applicable law. We are also satisfied with such a legal definition given in relation to the objects of the right of Ecology and, proceeding from this concept, the development of the system of protection of nature and their legal management in the fields of national economy does not correspond to the laws of nature, that is, the “complexity” nature of environmental systems. In addition, industry, transport, energy and other sectors of the economy can become the object of environmental control and expertise, rather than the object of environmental laws. Therefore, environmental laws are traditionally developed on the basis of specific objects of environmental law or their complexes, and environmental relations in society are regulated by these objects.

Taking into account the laws of nature and society described above, we take anthropogenically altered natural environments as one of the objects of environmental law that must be regulated separately.

Anthropogenically changed natural environment - a state of the environment that has changed radically in certain areas in the course of human economic activity.

Depending on the set of factors that cause such areas, we can divide them into urban, industrial and agrarian (agricultural) areas.

The level of anthropogenic change in the environment in cities depends largely on its size, industrialization and areas of activity, the level of consumer services and the infrastructure of transport networks.

More than 170 millionaire cities on earth (population over 1 million). According to the rules of population science, the number of large cities will increase by 2-3 times, taking into account the fact that large cities include settlements with a population of more than 0.5 million. In addition, if large cities merge in any area, they form megacities.

The compactness of the population in cities has a positive impact on the development of industry, as well as a negative impact on the level of environmental safety. Due to the high level of use of soil, flora and fauna, water and mineral resources in cities, the condition of natural objects in them is completely anthropogenically changed. The process of movement of ecological systems in them is inextricably linked with economic activity of people. In ecological systems, not only biological or chemical, but also physical changes (electromagnetic field oscillations) are manifested in a very strong way.

One of the factors that significantly affects the state of the environment in cities is the provision of public utilities. Its ecological impact on the environment is directly proportional to the level of sewerage and water supply in cities, central heating. Lack of centralized public utilities leads to pollution of natural facilities and, consequently, the deterioration of the sanitary-epidemiological situation. Another environmental aspect of public utilities is the solution to the problem of collection and disposal of solid waste. 30 million m<sup>3</sup> of household waste is produced annually in Uzbekistan and dumped in suburban reservoirs.

Thus, the degree and type of impact of anthropogenic factors on the environment in cities is more specific than in other anthropogenically changed areas. According to experts, the requirements for environmental protection in cities should include:

- improving the sanitary and epidemiological situation;
- ensuring the level of environmental safety of economic activities;
- strict regulation of waste and household waste and their utilization;
- ensuring noise;
- establishment of landscaping;
- widespread use of alternative energy in transport (electricity, solar energy, hydrogen fuel, non-motorized transport);
- wide introduction of ecological technologies in production;

- establishment of green protection zones;
- industrial and energy enterprises, airports to the outskirts of the city;
- to carry out construction works with minimal impact on natural components and to comply with the requirements of reclamation;
- introduction of measures for treatment of domestic and industrial waters and their secondary use;
- design, construction of buildings and structures (especially in the most harmful enterprises) depending on the seismic requirements of the site, etc.

The above-mentioned environmental requirements are very large in order to ensure environmental safety in cities and prohibit the implementation of specific socio-economic, cultural-household, political-mass, architectural-construction, economic work, the development and implementation of the environmental, management and control system of state and public bodies. Therefore, it is expedient to make cities and settlements a separate object of environmental law. In order to bring the regulation of environmental relations to the level of modern requirements, they adopted the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated February 18, 2020 No. 95 “On ensuring environmental safety”.

In this resolution, the use of machinery and equipment with constructive characteristics that ensure the reduction of negative impact on the environment, safety of personnel and prevention of accidents, as well as the use of technological processes, the negative impact on the environment. It is noted that this will be done through the use of effective methods and technologies for the treatment of exhaust gases and effluents, technologies for the disposal of waste, which will reduce the risk of emissions [8].

Currently, the legal requirements for nature protection in the cities of Uzbekistan: Nature Protection, Land Code, Water and Water Use, Protection of Atmospheric Air [5], On the Protection and Use of Wildlife [7], State Sanitary Laws and by-laws on control, highways, state land cadastre, protection of public health, protection of the population and territories from natural and man-made emergencies are reflected and regulated by them.

Along with the Constitution of the Republic of Uzbekistan, the purpose of the Law “On Nature Protection” is to protect the nature of certain objects (including cities), to guarantee the right of citizens living in them to a favorable environment (Article 1). Such a guarantee is carried out in the cities by the Cabinet of Ministers of the Republic of Uzbekistan, the State Committee for Nature Protection, city committees, local city and district government agencies. According to Article 9 of this law, the Cabinet of Ministers of the Republic of Uzbekistan pursues a unified policy for the protection of nature in cities, establishes a single procedure for use of

natural resources, their assessment and payment for their use and pollution, natural disasters and major disasters develops ways to save and eliminate the population. Creates an ecological system of education and upbringing and carries out ecological measures of national importance in this direction [2]

In accordance with Article 100 of the Constitution of the Republic of Uzbekistan [1] and Article 10 of the Law on Nature Protection, local state authorities and administration determine the main directions of nature protection in their territories; determine the procedure for cadastre of natural resources, logistics, use of nature, its pollution, waste disposal and utilization; they also exercise the powers provided for in the laws of restriction, prohibition, termination, collection of payments and other laws [2].

It is a very important legal measure to reduce the negative impact of the activities of economic sectors in cities on the environment and the population, as well as to establish norms and standards that guarantee the restoration of natural resources. Environmental standards in cities are maintained by the State Committee for Local Nature Protection, the Department of Health, the Department of Industrial Safety and Mining Control in accordance with their powers. According to these standards, the highest level (PDK, PDV, PDS, PDXV) of enterprises, organizations and institutions, citizens and stateless persons in the city, which can have a negative impact on the environment, is determined. Such limits are set in cities for PDK (maximum concentration of toxic substances) for atmospheric air and water. The level of substances that can not cause any pathological changes in the human body in atmospheric air or water is set in the Instruction No. SN 245-71 on the permissible level of air pollution in 160 different substances and 35 types of combinations of sanitary norms of PDK. For example, the level of carbon monoxide pollution is 1.0 mgHm<sup>3</sup> per day, for inactive objects - 20 mgHm<sup>3</sup>.

PDV is the amount of harmful substances emitted by certain enterprises or entities that are a source of emissions in cities. It is carried out in accordance with SN-369-74 and calculated in accordance with GOST 17.2.3.02-78. If a certain facility has 2 or more sources of emissions (from ventilation and power plants), the general parameters of PDV for this enterprise are determined. Disposal inventory (passport) is created for each PDV. It provides information on the quantity and quality of waste, methods of waste treatment and ways to improve environmental technologies. These passports are reviewed every 5 years on the basis of a separate application form. Similar processes are developed by the State Department of Standardization and Metrology on PDS, PDXV and other normative indicators and approved by the city sanitary-epidemiological service.

The use of certain natural objects in cities is regulated by differential law, normative acts adopted by local governments and control bodies. Lands in urban areas are included in the land fund of settlements in accordance with Article 8 of the Land Code. That is why there is a special procedure for their special protection and use. According to Article 59 of this law, urban lands are divided into the following categories: construction; general use; agriculture; woodlands; lands for industry, transport, communications, defense and other purposes; specially protected areas; water fund lands; spare places [3].

If we mean the efficient use of land in agrarian areas, we mean high yields and maintaining soil fertility, and the rational use of urban land means the construction and improvement of science in a scientifically sound manner, in accordance with the obligations of land planning. Urban lands are limited by urban planning and land management documents and permits are issued for their intended use. Users must comply with the environmental requirements for the protection of land set out in Chapter 11, Articles 79-82 of this law:

- obtaining permits from the State Committee for Nature Protection for the introduction of new technologies that adversely affect the condition of land in the placement, construction and operation of facilities, buildings and structures;
- environmental expertise of each economic process;
- green area, preservation of giant trees as much as possible;
- rectification;
- -organization of reservoirs that throw out household and industrial waste, etc.

Article 11 of the Law of the Republic of Uzbekistan “On water and water use” states: use of water in the design, placement, construction and commissioning of housing, enterprises, structures and other facilities in cities, taking into account the needs of the population for drinking water and household needs in the first place [4] This law requires the prevention of evaporation, pollution and depletion of circulating water, the prevention of damage to other natural objects, protection from salinization, sedimentation and drying.

In accordance with Article 17 of the Law of the Republic of Uzbekistan “On Subsoil” [6], the use of certain subsoil blocks is restricted or prohibited in cities and settlements, and in the surrounding green areas.

In order to ensure environmental safety in agricultural production, it is necessary to consider the existing agricultural areas as a separate anthropogenic and unique “object” of environmental law. It is necessary to develop a concept of legal management of public relations in agrarian areas, and to ensure that this system of

views remains one of the key elements of the concept of national security of the state.

Fayziev's SH.X. research [9.73] rightly requires that the legal regulation of social relations based on the rules and requirements of environmental safety in agriculture be considered a task of the state and law. The author argued that the requirements for environmental security in agriculture should be reflected in a separate “Environmental policy of the State” section of our Constitution. The inclusion of a separate article in the Law of the Republic of Uzbekistan on Nature Protection “Requirements for environmental safety in agriculture” is quite appropriate.

In industrial areas, as we mentioned above, the requirements of environmental pollution, degradation and environmental safety are specific to other anthropogenically modified objects, in which the global environmental requirements are:

- ensuring the completeness and efficiency of technological processes;
- reduction of pollution and poisoning and neutralization of harmful substances;
- widespread use of alternative energy sources;
- production of environmentally friendly products;
- continuous improvement of cleaning technologies and keeping them under state control;
- widespread application of scientific and technological processes or the establishment of highly efficient use of natural resources, etc.

Such universal environmental requirements require the application of enterprises in industrial areas at all stages of production:

- planning,
- design,
- placement,
- build,
- the process of launching and introducing new technologies that affect the environment.

Planning for the location of industrial zones or any industrial enterprise in them should begin with the consideration of environmental safety requirements in the sectoral or general economic development programs of the national economy.

Article 41 of Chapter X of the Law of the Republic of Uzbekistan on Nature Protection sets out environmental requirements for the location, design, construction, reconstruction, operation and liquidation of enterprises, organizations and other facilities.

Issuance of environmental certificates to enterprises that have established production is carried out in accordance with Article 46 of the Law on Nature Protection. Enterprises that do not have an environmental or hygiene certificate, as well as those that violate the established environmental and sanitary criteria in the course of business, are prohibited from using raw materials, introducing technological processes and producing finished products. The procedure for issuing environmental certificates is approved by the Cabinet of Ministers and implemented by the State Committee for Nature Protection and the Ministry of Health.

Limits and norms of use of natural resources in industrial zones, legal norms of compensation of damage to the environment by enterprises are regulated by a number of articles listed in Chapters IV, V, XI of the Law on Nature Protection. To those who have not grossly violated the environmental requirements by economic entities in industrial zones, it is desirable to first apply economic responsibility measures (Article 50), when these violations are repeated several times or grossly violated in a single case, to apply criminal, administrative types of legal responsibility.

It should be noted that the system of legal measures aimed at regulating the use and protection of nature, related social relations and the scope of their impact will depend on the level of development of Science, Science and technology available at each historical stage, as well as the state of the surrounding natural environment. In any society, the use of nature, protection, the inheritance of natural resources to the future generation is one of the priority tasks.

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