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D.Tuvshintugs: The Law Provides for the Ecological and Economic Value to Be Paid Fivefold in Cases of Illegal Collection and Harvesting of Rare Plants



Over the past 5 years, the prosecution service has supervised 327 cases of the crime of illegal harvesting of wild plants. Owing to geographical location and the distribution of natural resources, this type of crime is committed predominantly in Selenge, Dornod, Bulgan and Zavkhan provinces.

Within the framework of the “Protected Nature — Our Future” advocacy campaign, we spoke with D.Tuvshintugs, Deputy Chief Prosecutor of the Zavkhan Province Prosecutor's Office, about the incidence and resolution of the crime of illegal harvesting of wild plants and the relevant legal regulations.

The Zavkhan Province Prosecutor's Office has studied the incidence and resolution of crimes against the environment over the past 3 years. According to the study, what types of crime are committed most frequently?

Owing to the specific features of the territory, crimes of illegal logging and illegal harvesting of wild plants are committed predominantly in Zavkhan Province, accounting for 87 percent of all crimes against the environment. These types of crime were committed mostly in soums

such as Tosontsengel, Zavkhanmandal and Ikh-Uul.

Over the past 3 years, the provincial Prosecutor's Office has supervised 47 cases related to crimes against the environment.



Of these, 33 cases of illegal logging, 8 cases of illegal harvesting of wild plants, 5 cases of illegal hunting and 1 case of illegal use of mineral resources were registered and investigated.

How many persons who committed crimes against the environment have been held legally liable, and what liability was imposed?

The Prosecutor's Office issued indictments in 42 cases involving 61 persons who committed crimes against the environment and had them resolved in court.

The court found them guilty of crimes against the environment and sentenced 19 persons to fines, 3 persons to restriction of the right to travel and 1 person to community service. In addition, 38 persons were given suspended sentences without imprisonment; on the basis of the prosecutor's proposal, 21 persons were subjected to a coercive measure obliging them to plant 100 trees during their probation period in the forest area where they had illegally logged, and 2 persons were obliged to remedy the damage, which we consider to have been appropriate punishment in terms of accountability.

The Inter-Soum Court of First Instance in Zavkhan Province sentenced 2 defendants in a case of preparing to commit the crime of illegal mineral prospecting, which became the first instance in the province in which legal liability was imposed for the act of “preparation” for

this type of crime.

It appears that the crime of illegal harvesting of wild plants is committed predominantly in the territory of Zavkhan Province. What are the causes and conditions behind this type of crime?

The Criminal Code prohibits the collection and harvesting of plants included in the “List of Rare Plants” approved by Resolution No. 163 of the Government of Mongolia of 1995. However, the fact that the crime of illegal harvesting of rare wild plants is not decreasing is having negative consequences for the environment.

> The crime of illegal harvesting of wild plants is seasonal in nature and is committed mostly from April to October. In particular, there are many cases of illegal collection and harvesting of Siberian juniper (khonin arts), which is included in the list of very rare plants. The juniper of Otgontenger Mountain, located in the territory of Otgon and Aldarkhaan soums of Zavkhan Province, is a very rare plant.

Since ancient times, juniper has been widely used for household needs. However, citizens collecting Siberian juniper in large quantities without a permit for profit or for sale to others becomes grounds for criminal liability. Under the regulations, very rare plants may be used only for research and scientific purposes.

What legal liability is imposed for this type of crime?

Illegal harvesting of wild plants refers to the act of collecting, harvesting, selling, purchasing, storing or transporting very rare or rare plants, or their seeds or organs, without the appropriate permit or for purposes other than those provided by law. Under the law, a person who commits this crime is punishable by a fine of 5.4 million to 27 million MNT, or restriction of the right to travel for a period of 1 to 5 years, or imprisonment for a period of 1 to 5 years.

A distinctive feature of this type of crime is that, in addition to criminal liability imposed on the person who committed the crime, the damage caused to the environment must be paid fivefold in accordance with the Law on Environmental Protection.

How many cases of collecting and harvesting Siberian juniper have been resolved in court?

Over the past 3 years, the prosecutor transferred to court and had resolved 8 cases involving 8 persons in Zavkhan Province for illegal harvesting of wild plants, that is, collecting, harvesting and transporting very rare or rare plants, or their seeds or organs, without the appropriate permit or for purposes other than those provided by law.

> In these cases, a total of 1,086 kg of harvested juniper was confiscated, and a decision was obtained ordering the guilty persons to pay compensation of 781.4 million MNT for the damage caused to the flora into the Environment and Climate Fund.

To explain one case by way of warning: in a case in which a named citizen collected and harvested 15 sacks of Siberian juniper and transported them in a vehicle owned by him, the court gave the person a 2-year suspended sentence without imprisonment, imposed a coercive measure of obligations, increased fivefold the ecological and economic value of the Siberian juniper of 30.6 million MNT and ordered the recovery of 153.2 million MNT for the damage caused to the flora, and also ruled that the vehicle be confiscated as state revenue.

What work and measures is the Zavkhan Province Prosecutor's Office taking to prevent crimes against the environment?

The provincial Prosecutor's Office is implementing measures aimed at raising citizens' legal knowledge in order to reduce the prevalent crimes of illegal logging and illegal collection and harvesting of wild plants and to prevent this type of crime.

Prosecutor's notices on organizing preventive work and measures have been sent to the senior officials of the soums where crimes against the environment are most prevalent.

Going forward, the Prosecutor's Office is working to identify situations in which the activities of business entities and organizations engaged in mineral extraction have violated, or may violate, citizens' health and state and public interests, and to intensify work to protect public interests.

In addition, awareness-raising talks and information campaigns are being organized in stages to raise citizens' legal knowledge and foster the right attitude of cherishing and protecting the environment.

The Constitution of Mongolia states that protecting the environment is a sacred duty of every citizen. Therefore, we call on everyone to treat the environment properly and responsibly and to protect rare plants and wildlife.

Эх сурвалж: https://prosecutor-en.greensoft.mn/post/3662