

Original Paper

Research on Compensation System for Ecological Environment Damage—Taking Ganzi Prefecture of Sichuan Province as an Example

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Abstract

The construction of ecological civilization is a process of sustainable development. Environmental protection extends from individual interests to social public interests, from general tort compensation to environmental public interest litigation and ecological environmental damage compensation, which effectively improves the ecological environment. As the most important natural forest distribution area in Sichuan Province, Ganzi Prefecture is an important part of the ecological protection barrier and “China Water tower” in the upper reaches of the Yangtze River and the Yellow River. It is rich in forest, grassland and wetland resources and has a good ecological environment. This paper mainly makes an empirical study of the ecological environment damage compensation system in Ganzi Prefecture, and puts forward some suggestions for improving the system.

Keywords

Ganzi Prefecture, compensation for ecological and environmental damage, perfect

1. Question Raising

Garzi Tibetan Autonomous Prefecture (referred to as “Garzi Prefecture”) is an important part of the ecological protection barrier and the “China Water Tower” in the upper reaches of the Yangtze River and the Yellow River. It has a good ecological environment background and rich forest, grassland and wetland resources. It is the most important natural forest distribution area in Sichuan Province, ranking first in both quantity and area of Sichuan Province.

In order to implement the Implementation Plan for the Reform of the Ecological and Environmental Damage Compensation System of Sichuan Province, Ganzi Prefecture has formulated the Implementation Plan for the Reform of the Ecological and Environmental Damage Compensation System of Ganzi Prefecture (hereinafter referred to as the Implementation Plan) after the approval of the third meeting of the Comprehensive Deepening Reform Committee of the Ganzi Prefecture Party Committee, and the Implementation Plan has been issued throughout the prefecture on October 17, 2019. This paper is devoted to the empirical study of the ecological environmental damage compensation system in Ganzi Prefecture, including the main body of the launch, the scope of application, procedural rules, fund management, and the conflict, coordination, cohesion and other similar mechanisms. Based on personal opinions, this paper offers suggestions for promoting the development and construction of the system.

2. Analysis of The Current Situation of Ecological and Environmental Damage Compensation in Ganzi

2.1 Ganzi Prefecture Ecological and Environmental Damage Compensation System

2.1.1 Indemnify the Right Holder and the Damages Obligor

2.1.1.1 Indemnifying the Right Holder

The right holder of compensation refers to the right subject who has the right to start the claim procedure, organize the consultation or initiate the lawsuit when the ecological environment damage event occurs. Article 3 (3) of the Implementation Plan stipulates that the People's Government of Ganzi Prefecture, authorized by The State Council, is clearly the right holder of compensation for ecological and environmental damage in Ganzi Prefecture.

2.1.1.2 Compensation Obligor

The obligor of compensation for ecological damage is a unit or individual whose behavior violates the provisions of laws and regulations and damages the ecological environment. Article 3 (2) of the Implementation Plan provides that units or individuals who are born due to violations of laws and regulations and who are compensated for ecological environmental damage shall ensure that they are fully compensated and fully compensated.

2.1.2 Scope of Application of Ecological and Environmental Damage Compensation in Ganzi Prefecture

Ecological environmental damage refers to environmental pollution and ecological damage events that occur within the red line of ecological protection in accordance with the provisions of Article 2 of the Implementation Plan when the water quality of the national important water functional areas is reduced or not up to the standard, and the water quality of drinking water sources is decreased due to mining; River channel sand mining, water resources development, water conservancy project construction and other projects that fail to fulfill their obligations of ecological and environmental protection according to law; It includes the seven cases mentioned in the Sichuan plan that are applicable to the compensation

system for ecological and environmental damage, including the degradation of ecosystem functions, environmental pollution or ecological damage.

2.1.3 Scope of Compensation for Ecological Environment Damage in Ganzi Prefecture

Article 3 (1) of the Implementation Plan specifies the scope of compensation: “The scope of compensation for ecological and environmental damage includes reasonable expenses such as emergency treatment costs, pollution removal costs, investigation, identification and evaluation.”

2.1.4 Ganzi Prefecture Ecological and Environmental Damage Compensation Work Started

According to the provisions of Article 3, paragraph 4, of the Implementation Plan, the departments responsible for this work can take actions as necessary, and promptly initiate preliminary investigations and verification to confirm the facts, behavior and causality of the ecological and environmental damage incidents, whether they are found through administrative law enforcement, complaints and reports, environmental monitoring, or judicial transfer. The procedures for compensation for ecological and environmental damage shall be initiated, and those found after investigation and verification shall be investigated for compensation for ecological and environmental damage.

2.1.5 Ganzi Prefecture Ecological and Environmental Damage Compensation Consultation Procedure

In accordance with the provisions of Article 3 (5) of the Implementation Plan, the People’s Government of Ganzi Prefecture and its designated departments or institutions will consult with the compensation obligors on specific issues such as the degree of actual damage, the time and time limit for starting repair, and the way and time limit for bearing compensation liability, according to the investigation report and the damage appraisal opinions. In the process of consultation, factors such as the technical feasibility of the repair plan, the optimization of cost-effectiveness, the compensation capacity of the compensation obligation and the feasibility of third-party governance need to be comprehensively considered.

2.2 *Sorting out Cases of Ecological and Environmental Damage in Ganzi Prefecture*

2.2.1 Cases of Compensation for Damage to the Ecological Environment of Water Areas (Note 1)

On October 26, 2021, after receiving clues about the ecological environmental damage compensation case, the Ganzi Prefecture Water Resources Bureau set up a leading group for ecological environmental damage compensation to rush to the scene of the incident. After investigation, the construction party of Longzhihui slaughterhouse project in Jiulong County dumped tens of thousands of square meters of waste in the Xiaer River channel, seriously encroachment on the river channel, causing flood safety hazards.

On November 29, 2021, the Ganzi Prefecture Water Resources Bureau submitted an application to the Ganzi Prefecture People’s Government to start the compensation procedure for ecological and environmental damage. After approval, Ganzi Prefecture Water Resources Bureau actively organized Sichuan Jiulong County Longzhihui Agricultural Development Co., LTD., Ganzi Prefecture People’s Procuratorate, Ganzi Prefecture Ecological Environment Protection Bureau and other units to hold a consultation meeting on ecological and environmental damage compensation, and finally reached a conclusion that Sichuan Jiulong County Longzhihui Agricultural Development Co., LTD., to bear 219,920 yuan of ecological and environmental damage compensation. After the restoration project was

fully completed, Sichuan Jiulong County Longzhahui Agricultural Development Co., Ltd. applied to Ganzi Prefecture Water Resources Bureau in time to organize the acceptance and provide relevant supporting materials, and the final acceptance was qualified.

2.2.2 Compensation Cases Involving Ecological and Environmental Damage in Mines (Note 2)

On June 22, 2022, Ganzi Prefecture Natural Resources and Planning Bureau negotiated the compensation for ecological environmental damage of Danba County Zhongkai Mineral Processing Co., LTD. At the consultation meeting, representatives of the working group of Ganzi Natural Resources and Planning Bureau made a detailed introduction on the illegal facts, investigation conclusions, expert assessment and legal basis of the enterprise case. After fully understanding the harm of their own environmental violations, the compensation obligor expressed its willingness to bear the liability for compensation for ecological environmental damage, and agreed to identify and assess it, and assume the liability for compensation for environmental damage, and took a voluntary investment of 100.32 million yuan in order to fulfill the liability for ecological environmental damage.

2.2.3 Cases of Ecological Compensation for Illegal Fishing, Multiplication and Release (Note 3)

On September 12, 2023, Luding County of Ganzi Prefecture carried out ecological compensation for illegal fishing of breeding and releasing, which is the first time that Ganzi Prefecture has adopted the method of “ecological compensation” for illegal fishing activities since the Yangtze River was banned for ten years in 2020. The action is based on the principle of “who destroys who repairs”, and the outflow funds are derived from the 30,000 yuan ecological compensation fee paid by the involved personnel. With the visible compensation of breeding and releasing to make up for the damage caused to the ecological environment, through the combination of “punishment and recovery”, “repair of a place, education of a group, and vigilance of a group”, illegal fishermen bear the cultivation and purchase costs of breeding and releasing fish fry, so as to achieve the purpose of punishing education and promoting the vivid practice of ecological and environmental damage compensation system.

2.3 Ganzi Prefecture Ecological Environment Related Departments to Carry out Joint Actions

Ganzi Prefecture Ecological Environment Bureau has held joint meetings with Ganzi Prefecture Intermediate People’s Court, Ganzi Prefecture Intermediate People’s Procuratorate, Ganzi Prefecture Natural Resources Bureau, Ganzi Prefecture Agriculture, Animal Husbandry and Rural Bureau, Ganzi Prefecture Water Resources Bureau, Ganzi Prefecture Forestry and Grass Bureau and other relevant departments for many times to promote the ecological environment damage compensation work in Ganzi Prefecture.

3. The Problems of Ecological and Environmental Damage Compensation in Ganzi Prefecture

3.1 Insufficient Institutional and Personnel Allocation, and the Interdepartmental Connectivity Needs to Be Further Strengthened

The ecological environmental damage system is not something that can be solved by a single department or government agency of the ecological environment department. Its good operation depends on the

scientific and technological departments to carry out research on the identification and evaluation technology of ecological environmental damage, which requires the judicial departments to cooperate with the judicial identification management work, and even the public security departments to coordinate the handling of environmental criminal cases and ecological environmental damage compensation cases.

3.2 The Supporting System of Compensation for Ecological and Environmental Damage still Needs to Be further Established and Improved

At present, through online search, only the Implementation Plan for the reform of the ecological and Environmental damage compensation system in Ganzi Tibetan Autonomous Prefecture and the Working Rules for the linkage of environmental administrative Punishment and ecological and environmental damage compensation in Ganzi Prefecture were found. There is a lack of relevant supporting systems, such as: Regulations on the work procedure of Ecological and Environmental Damage Compensation in Ganzi Prefecture, Consultation Measures for Ecological and Environmental Damage Compensation in Ganzi Prefecture, Management Measures for Ecological and Environmental Damage Restoration in Ganzi Prefecture, Management Measures for Ecological and Environmental Damage Compensation in Ganzi Prefecture, Consultation Measures for Ecological and Environmental Damage Compensation in Ganzi Prefecture, etc.

3.3 The Protection System of Ecological and Environmental Damage Compensation Funds Needs to Be Further Improved

Through the study of the above cases, it is found that the damage of the ecological environment damage has a wide range and a large degree of damage, and the amount of compensation for ecological damage in consultation or litigation is often large. In practice, there may be cases where the compensation obligor cannot or is unable to make compensation due to the limitation of economic capacity, or how the compensation funds are applied for, used and supervised after the compensation is made. These problems to a certain extent affect the efficiency of work and the performance of funds.

3.4 The Compensation Mechanism for Damage to the Ecological Environment Needs to Be Further Improved

Although the “implementation Plan” stipulates that “the procuratorial organs in the whole state handle all kinds of cases involving the ecological environment according to law, and support the compensation right holders to claim the right to ecological environmental damage according to law,” the issues such as the ranking of compensation right holders, social organizations and procuratorial organs and how to avoid the duplication of the above work still need to be further improved. The Implementation Plan defines negotiation as the preliminary procedure of ecological environmental damage compensation litigation, and if the two parties fail to reach an agreement through negotiation, the compensation rights defenders can file ecological environmental damage compensation litigation. However, in terms of the consultation system, there is no corresponding link with the current environmental public interest litigation.

4. Suggestions on the Improvement of Ecological and Environmental Damage Compensation System in Ganzi Prefecture

4.1 Establish a Sound Coordination Mechanism for Ecological Damage Compensation

We smoothly carried out work related to compensation for ecological and environmental damage and ecological and environmental restoration, involving cooperation in legislation, judicial, administrative and scientific research. First of all, relevant government departments should cooperate with each other to establish a rapid and effective communication and consultation mechanism and administrative relief channels. Although the responsibilities of relevant departments have been clearly defined in Article 4 (2) of the Implementation Plan, all departments should establish and improve mechanisms such as regular consultation, communication and cooperation, and information sharing in practice, so as to achieve seamless connection and improve efficiency of ecological and environmental damage compensation and restoration work. Secondly, there should be effective communication and coordination mechanism between the obligor and the right holder. At the same time, we should strengthen communication and coordination with the surrounding people. Such as: Liangshan Prefecture of Sichuan Province has established a joint meeting system, carried out a double investigation of the case of “law enforcement + compensation”, and issued the Working Rules for the linkage of environmental Administrative Punishment and ecological environmental damage Compensation in Liangshan Prefecture, replacing “compensation after recovery” with “compensation after compensation”. For cases involving environmental resources crimes, combining the criminal facts, circumstances and repair conditions, explore “no prosecution” and “probation”. Not only pay attention to the ecological environment “people’s livelihood”, but also listen to the “voice of the people” who are responsible for pollution.

4.2 Establish and Improve the Relevant Supporting Ecological Damage Compensation System

At present, there is no special law on compensation for ecological environmental damage in China. When the ecological environment is damaged, compensation is mainly carried out according to the provisions of the Environmental and Resource Protection Law of the People’s Republic of China and the Civil Code of the People’s Republic of China. However, these laws do not specify specific remedies for ecological and environmental damage. Next, it is suggested that on the basis of learning from the experience of relevant cities and states, the Regulations on the work procedure of ecological Environmental Damage Compensation in Ganzi Prefecture, the Measures for Consultation on Ecological Environmental Damage Compensation in Ganzi Prefecture, the Measures for the Management of Ecological Environmental Damage Restoration in Ganzi Prefecture, and the Measures for the Management of Ecological Environmental Damage Compensation funds in Ganzi Prefecture should be gradually formulated. Strengthen the compulsory implementation of ecological and environmental damage compensation work, improve the fluency of work, and ensure the effective implementation of the ecological and 4.3 Improve the system of funding compensation for ecological and environmental damage.

On the one hand, in view of the situation that the compensation obligor fully compensates the compensation fund for ecological environmental damage, the management mode of more efficient use

and management of the damage compensation fund is explored. On the other hand, in the case of compensation obligors unable to pay or uncertain, you can refer to the relevant experience, such as the “Liangshan County ecological environmental damage compensation and ecological environmental protection civil public interest litigation to carry out labor compensation (trial)”. The Measures adopt the method of “compensation by work” in three special situations, such as economic difficulties, small environmental impact or other minor circumstances, and the harm consequences are not obvious. That is, through public welfare labor, an application can be made to the contractor to fulfill the obligation of compensation, so as to maximize “the environment has a price and the damage is responsible.”

In addition, we can learn from foreign experience and explore ways of socialized sharing, such as establishing a compensation fund for ecological and environmental damage as a supplement, and using the fund as a cushion to carry out ecological and environmental restoration work after ecological and environmental damage occurs, such as establishing a compensation fund for ecological and environmental damage as a compensation fund and implementing advance payment of the fund. It is also possible to explore sharing models such as the corporate environmental restoration deposit system, and the compulsory responsibility system between the environmental responsibility trust fund and high-risk industries. By constantly improving the fund management and use system and exploring the practice of social sharing mode, the damaged ecological environment can be effectively repaired and the quality of the ecological environment can be improved.

4.3 Further Improve the Compensation Mechanism for Ecological and Environmental Damage

The People’s Government of Ganzi Prefecture should summarize the practices, deficiencies and experiences of various places in the compensation for ecological environmental damage in a timely manner, and learn from foreign practices to gradually improve the ecological environmental compensation mechanism, further straighten out the order among litigation subjects such as compensation rights holders, social organizations and procuratorial organs, and clarify the relationship between the consultation system and other environmental public interest litigation. In response to the same ecological and environmental damage incidents, we will gradually improve the information disclosure and sharing mechanism, so that prominent contradictions that are strongly reflected by the public can be effectively resolved, saving people, money and resources, and avoiding duplication of work and intensifying contradictions. For example, the Guangzhou Municipal People’s Procuratorate and the Guangzhou Municipal Bureau of Ecological Environment jointly issued the Implementation Opinions on Strengthening the Linkage Mechanism between ecological and Environmental Damage Compensation and Procuratorial Public Interest Litigation (Trial), which clearly states that procuratorial organs can transfer the ecological and environmental damage case clues handled by the ecological and environmental departments in a timely manner when they find them in the performance of their duties; Where the ecological environment department has screened the clues of ecological environment damage and cannot carry out claims due to real difficulties, it may transfer the case to the procuratorial organ to carry out public interest litigation; At the same time, it is clear that the ecological environment department

and the compensation obligor shall negotiate according to law and regulations, and copy the Consultation Notice and Compensation Agreement of the procuratorial organ at the same time; The prosecution can send its staff to participate in the negotiation, provide legal opinions and suggestions, and support the compensation agreement applied for judicial confirmation.

References

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- Yuan, H. P. (2023, April). *Research on Some Issues of Compensation System for Ecological Environmental Damage*. Changsha: Central South University Press.

Notes

Note 1. Compensation of 219,920 yuan! The first case of compensation for ecological and environmental damage in water-related fields in my state was concluded

<https://baijiahao.baidu.com/s?id=1740816057670635163&wfr=spider&for=pc>

Note 2. The first mine ecological environmental damage compensation case in Ganzi prefecture was successfully negotiated

https://mp.weixin.qq.com/s?__biz=MjM5ODQyMjg5Nw==&mid=2649904932&idx=2&sn=9dd9427c3bcb0d8541cd20ff60d27504&chksm=becc073a89bb8e2c76acf7c6e8cb5ff8f64e03fc11823d61614898780741a5184128dbedbe60&scene=27

Note 3. Ganzi prefecture carried out the first illegal fishing ecological compensation to increase and release

<http://sthjt.sc.gov.cn/sthjt/c106044/2023/9/13/12e290bb28a04eae9b419e04dc99183.shtml>