

REVIEW OF THE ENERGY LAW OF THE REPUBLIC OF UZBEKISTAN

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Keywords: *Energy law, fuel and energy complex, production sharing agreement, energy sector, energy legislation.*

Annotation: *the article is devoted to the legal analysis of approaches to the understanding of energy law. The author analyzed the legal acts regulating relations related to energy (fuel and energy complex) in the Republic of Uzbekistan and the peculiarities of their legal regulation in various legal systems. In the presented work the author considered the processes of historical evolution and formation of the concept of energy law. At the same time, the paper offers conclusions about the features of the integration of methods for energy regulation in the Republic of Uzbekistan, new types of agreements and standards in the energy sector, as well as conclusions about the prospects and directions of sustainable development of the principles of legal regulation of energy.*

The author in the study proceeds from economic and socio-cultural approaches to law and the state. Taking into account the opinions of the predecessors of this direction in science, in particular: opinions on the significance of the subject matter of the Australian scientist Adrian Bradbrow, representative of the modern theory of energy law: Energy itself has an “all-consuming social importance.”³ Considering the socio-historical retrospective of the subject: the term was first defined in the study as—“Energy is the name given to an effect (phenomenon) or group of natural phenomena (phenomena) demonstrated (shown) by various substances (materials), as well as the phenomena themselves.”⁴ Given the importance of rational legal regulation for the world community the subject of the study: schemes for trading quotas on harmful emissions as one of the market instruments of regulation.⁵

The material of the article shows the permissible limits of independence of the energy sector of the Republic of Uzbekistan. Review of the ongoing processes of globalization of the country's economy, with the convergence of national legal systems and unification of law in the field of energy regulation and also, about the issues related to the problems arising from these changes in this area.

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³ *Bradbrook A. Energy Law as an Academic Discipline // Journal of Energy & Natural Resources Law. 1996. Vol. 14. P. 194.*

⁴ *Joyce Joseph. A treatise on electric law. Vol. I. N.Y., 1907. P. 1 - 2.*

⁵ *Gutbrod Max, Sitnikov Sergei. Trading in Air Mitigating Climate Change Through the Carbon Markets. M., 2010.*

In the work, as such tasks are considered, bringing into authenticity of approaches to the understanding of terms related to the legal regulation of energy and in particular the concept of "energy law", "energy regulation". At the same time, attention is drawn to the importance in the process of unification and harmonization of legislation to preserve the traditional way of life, local specifics and established customs in certain areas of legal regulation of energy.

In the article, using the method of comparison, existing in the world scientific community approaches to understanding the subject of research, shows and justifies the permissible limits and ways of implementation in the national legislation of standards, norms and recommendations of international institutions for energy regulation.

It also shares its comments and suggestions on making changes in the direction of institutionalization of energy law of the Republic of Uzbekistan in general and in particular focuses on solving problematic issues of methods of public law regulation.

Modern energy legislation of the Republic of Uzbekistan is a chaotic accumulation of different levels of normative legal acts that have a number of theoretical problems arising in the process of regulation, which must be systematized doctrinally developed.

The first normative legal acts related to the energy sector in the Republic of Uzbekistan began to be adopted since the 90s, and currently the law enforcement practice in the energy sector has all the prerequisites of the established branch of law-energy law.

Energy law, being an independent branch in the legal system of the Republic of Uzbekistan like environmental and financial law is intensively developing. The development of this industry is closely related to the reforms in the energy sector, which are still ongoing.

The dynamics and pace of development of this industry has acquired a new form after the adoption of presidential Decrees, which gave impetus to the industry and became the beginning of its new milestone setting the vector of state policy in the energy sector.

Nevertheless, the relative novelty of this industry in the legal system of the Republic of Uzbekistan poses large-scale tasks for specialists at the legislative, doctrinal and law-conciliation levels. In this regard, five main areas of concern were identified in the presidential decree of February 1 of this year "on measures to radically improve the management system of the fuel and energy industry of the Republic of Uzbekistan"⁶.

⁶ *The Presidential Decree of 01.02.2019, No. 5646 "on measures to radically improve the management system of the fuel and energy industry of the Republic of Uzbekistan".*

First — the lack of coordination and a systematic approach to the issues of the associated development of fuel and energy sectors and diversification of energy sources increases the risks of sustainable energy supply to the economy and the population of the country, taking into account their growing needs;

second — the Directive model of management of energy industry organizations, excessive administrative regulation of financial and economic activities of companies, as well as the irrational use of labor resources reduce the efficiency and effectiveness of their work, lead to an increase in non-production costs and costs per unit of energy produced;

third — the absence of a healthy competitive environment, the presence of a significant quasi-public sector and the conflict of state and commercial interests, the lack of conjugation of tariff regulation measures with investment policy have a negative impact on the investment attractiveness of the fuel and energy sector;

fourth — the development of the industry is limited to system-wide problems such as high equipment wear and slow the rate of renewal of the relevant infrastructure, maintenance of equipment, facilities, pipelines and power lines in violation of the terms of

The subject discussed in this Decree is relevant in all countries of the world, the development and study in the direction of methods of management of the energy sector and has long been generated. "The need for scientific research in the field of legal regulation of energy relations and increases due to the need for legal regulation of the basic principles of formation and functioning of the wholesale and retail market of electric energy, markets of other types of energy carriers; establishment of the degree of state participation in the management of the fuel and energy complex (further-fuel and energy complex (FEC)) and regulation of prices and tariffs for energy carriers; creation of a stable legal environment for foreign economic activity of FEC enterprises, favorable for domestic and foreign investors and acceptable for the Republic; providing legislative guarantees to investors and securing structural and property transformations in FEC industries.⁷

It should also be noted that the work on the problems of the energy sector was generated even earlier, according to the Presidential Decrees of July 19, 2018 "On measures for the development of nuclear energy in the Republic of Uzbekistan". The preamble of which emphasizes the pressing problems of this sector and possible prospects for the energy well-being of the nation as a whole.⁸ As possible prospects, the institutionalization of this industry, the creation of a centralized academic study and monitoring are considered.

However, what matters is that energy law-as an academic discipline-is taught in many universities around the world, such as The Institute of Energy Law of the Faculty of Law of the Free University of Berlin; The faculty of energy, ecology and natural resources of the University of Houston Law Center; Ural state Law Academy; there are departments of legal regulation of energy relations (MSIIR,KMSLU), centers and institutes of energy law (*M. Koretsky Institute of State and Law of the National Academy of Sciences of Ukraine*).

Energy as a private sector for the Republic of Uzbekistan is a strategic segment. Legal regulation acts as a cartelizing element of all innovations and changes. Development and construction of energy infrastructure in the

service, precarious financial situation, low level of implementation of resource - saving technologies, leading to increased process losses and systematic disruptions in the supply of fuel and energy resources, especially in the field;

fifth — the weak work on the introduction of automated systems for enterprise resource planning, control and accounting of supplied energy resources and other modern information and communication technologies in the industry leads to high losses in the supply of energy resources to consumers and violations in the system of mutual settlements.

⁷ Ulbashev A. H. *Problems of influence of international law on the formation of energy law in Russia* // *Energy law*. 2013. N 2. P. 22 - 24.

⁸ *The Presidential Decree No. 5484 of 19.07.2018 "on measures for the development of nuclear energy in the Republic of Uzbekistan". The first paragraph of the Decree refers: "the active investment policy Implemented in the country aimed at expanding existing and creating new production facilities, as well as large-scale work to improve the level and quality of life of the population require reliable sources of energy resources, the need for which increases from year to year."*

However, in the Decree referred to:

"The growth and needs of the economy and population of the republic in energy resources..."

"In order to meet the growing needs of the population and economy of the country in electric energy, as well as to ensure sustainable energy supply by increasing generating capacity, diversification of the energy sector, peaceful use of nuclear energy and the introduction of advanced innovative technologies in this area."

Republic implies legal regulation of these processes. Scheme of territorial energy planning of the Republic of Uzbekistan in the field of: transportation⁹, oil pipelines¹⁰ the standardization of the pipeline system¹¹.

Energy law as a science in the Republic of Uzbekistan has obvious needs for new researches. In connection with what the research is expected, in the directions (group problems) of the theoretical foundations of energy law - today is more relevant than ever.

For the purpose of objectivity of research intentions we consider it necessary to state the known facts in this path, such as:

at the time of working on this work, the scientific research base in the direction of "Energy law" was absent;

energy law, energy management as a separate category of science in the Republic of Uzbekistan was not studied;

the conceptual apparatus of energy law was absent;

the authenticity of the terms used in industrial practice with the terms of theoretical carriers were not compared;

scientific analysis of the existing Normative-legal acts aimed at regulating the energy industry was not carried out.

Energy law, as a science in the Republic of Uzbekistan began to form recently but currently there are few scientific works and studies in this direction. In this connection, the definition of the term "energy law" remains scientifically undeveloped, it should also be noted that there is no norm-definition of this term in the legislation of the Republic of Uzbekistan.

Therefore, having studied the existing approaches to the understanding of energy law within the framework of national law and the theoretical experience of other countries similar in legal systems to the Republic of Uzbekistan, the following can be given, many authors adhere to a (wide) understanding of this term, for example, "energy law" is a separate system of legal norms that are structurally divided into legal complexes such as energy, fuel and energy, and alternative energy, as well as the functionality of the norm, which not limited to national legal space.

The above described approach to the definition of energy law is collective. At the same time, it should be borne in mind that this approach, being a broad understanding, did not set itself the task of giving an exhaustive definition of the meaning of the term, but only allows us to define international law as a system and as a branch of law in a generalized sense.

⁹Example: in terms of pipeline transport, UTV. by order of the government of the Russian Federation No. 816-R of may 6, 2015, as amended: December 24, 2015, January 31, 2017.

¹⁰Example: SP 36.13330.2012 Main pipelines. Updated version of SNiP 2.05.06-85*, SP 125.13330.2012 "SNiP 2.05.13-90 oil Pipelines laid on the territory of cities and other settlements".

¹¹Example: NEB Act and national standard "oil and Gas pipeline systems" CSA Z662B (Canada).

Also, among the approaches to the understanding of the term "energy law" we can distinguish the following: energy law—"In fact, energy law is a legal matrix that synthesizes the norms of various branches of law (both private and public)";¹²

This study is relevant because at present energy law as a separate industry is not fully formed and is considered to be still waving in many legal systems of the existing countries of the world. But, despite this, controversy has been going on for a long time in legal science. Representatives of legal science from different countries do not stop trying to define the concept of energy law. To date, their research has led to partial knowledge and discoveries in this area.

In our opinion, and taking into account the existing approaches and being familiar with the elements (features) of this legal phenomenon, we adhere to the following approach to the concept of Energy law – a set of legal norms governing complex relations arising from the search, exploration, production of primary sources, generation, transmission, distribution and use of energy between the subjects of public administration and providing services for the above types of energy activities, as well as between energy consumers.

It seems to us that this approach is the most correct at the present time, for the following reasons, it is that in comparison with other approaches it is comprehensive and has absorbed all the essential and recognized by many scientists in this field elements of this legal direction:

The first element, a set of homogeneous norms-given that these relations are formally defined, equal, universal, and that all forms of energy relations because of the strategic importance of energy must be controlled and recognized by the state, assigns them the status of relations regulated by legal norms. The legal norms regulating energy relations are not codified to the present time, and exist in the content of different regulatory legal acts, according to the principle-classification of energy.

The second element, the complexity of energy relations – in its structure and components, these relations are heterogeneous and have a complex mechanism of interaction with high dependence. But, also, these relations have already historically developed well-established platforms, which, according to the logical chain of origin of objects, enter into cyclic interaction.

However, for the best understanding of the term energy law, it is necessary to distinguish it from similar terms in form, for example, the term public-legal regulation of energy – is the direction of economic activity of the state on the legal distribution, use, transformation of energy resources, carried out by public authorities and subjects of economic management. The order and status of this activity are the objects of legal regulation.

The subject of legal regulation in the energy sector is the public relations themselves. Public relations in the energy sector have certain characteristics:

connected with energy-the process of energy origin, the order of transition and storage, the process of transformation and cessation of energy existence;

¹² Yakovlev V.F. *Legal regulation of the fuel and energy complex of Russia // Energy and Law: Issue 2 / P.G. Lakhno. M., 2009. p. 10.*

connected with the establishment of the status of energy, modes of energy resources and modes of energy facilities;

connected with the rights and obligations of subjects of management and subjects of energy consumption;

Along with that, the role of law in the regulation of public relations in the energy sector is difficult to overestimate. Law and energy, being different categories, exist as correlating components of energy – this means that law, following the development of relations in the field of energy regulates them. The emergence of a new type of energy and related, socially significant relations is subject to legal influence and move into the category of legal relations. The settlement of relations in the field of alternative energy can be given as an example for this.

In order to understand the nature of such legal impact, it is necessary to pay attention to the reasons that made them socially significant.

In the energy sector, these reasons are: growing the value of energy consumption; growing the commercial liquidity of energy; increasing the technological potential of energy; increasing environmental risks in the energy sector, etc. As well as the fact that energy has established itself as an integral attribute of social, political and economic relations, which certainly made it the subject of legal regulation.

Legal relations in the energy sector are complex, and therefore can be classified into the following types:

by the subject of regulation-legal relations that fall within the competence of the state body and the competence of the subject of economic management;

by types of energy resources – these are legal relations that arise over oil, gas, coal, electricity and nuclear energy;

by the sectors of division of law - to public legal relations (vertical) and private legal relations (horizontal);

by territorial origin – legal relations arising within the country by national participants and at the cross-border level with the participants of a foreign element.

by subject structure - legal relations between private persons, private persons and subjects carrying out public management, and including other combinations;

by the status of the legal act – the legal relations regulated by the Constitution, the law, under legal acts, and also departmental acts of public authorities and local acts of the subjects performing public management on the referred subject of management.

In the legal literatures, many authors¹³ distinguish such common types of principles of energy law:

1) the principle of guaranteeing the provision of energy supply and energy security (the obligation to join the network and to supply energy and energy sources-energy carriers);

2) the principle of making the centralized decrees on the main issues of state regulation of relations in the field of energy;

3) the principle of priority of energy in the country's economy and its mineral resources;

¹³ Yakovlev V. F. *Legal state: questions of formation*. Moscow: Statute, 2012. 488 p. These data are given in the research paper: V. S. Kamenkova, "The concept of energy law, Doctor of Law, Professor, Honored Lawyer of the Republic of Belarus, Head of the Department of Financial Law and Legal Regulation of Economic Activities of the Belarusian State University, Chairman of the Belarusian Union of Lawyers.

- 4) the principle of protection and environmental protection;
- 5) the principle of predictability of public policy in the field of energy;
- 6) the principle of energy saving and energy efficiency;
- 7) the principle of adequacy of energy prices with the costs of their production and sale;
- 8) the principle of saving rare types of fuels and using coal;
- 9) the principle of ensuring the development and use of alternative renewable energy sources;
- 10) the principle of reducing dependence on foreign suppliers (for energy-deficient countries) and on transit countries".

Legal regulation of energy due to the complexity of legal relations can be carried out in various ways, but among them the most common and meaningful are the methods of public and private law.

Methods of public legal regulations in the energy sector are forecasting, planning, coordination, supervision and control, as well as monitoring to prematurely detect social relations that are already socially significant or become such, in order to preventively resolve them. These methods are always legally defined.

The legislation of the Republic of Uzbekistan provides for general and special methods of public legal influence: Methods of public law management are concluded in the norms of normative legal acts and are mainly imperative in nature in contrast to private law relations, which are characterized by a dispositive method, a certain part is contained in addition to normative legal acts in contracts and generally accepted and historically non-binding acts.

General basic methods of regulation:

the public legal method of power subordination;

the private law method of equal relations (coordination).

Public-law methods of regulation of relations are contained in the norms of codification acts, such as the town-Planning code, Tax code, Land code, code of administrative responsibility, Criminal code, as well as in such laws as the law "on competition and restriction of monopolistic activity in commodity markets», the law "on industrial safety of hazardous production facilities", the law "on safety of fuel and energy complex facilities», the Decree of the President of the Republic of Uzbekistan "on measures to radically improve the system of state administration and supervision in the fields of industrial, radiation and nuclear safety" and the resolutions of the President of the Republic of Uzbekistan "on the organization of the activities of the State Committee of industrial safety of the Republic of Uzbekistan".

It is necessary to take into account that the methods of regulation of public and private law can be found in the content of one act, in a combined form. This is mainly due to the status of the subject (a special type of energy) regulation, or due to the peculiarities of its organization and jurisdiction of these relations. The public-law regulation in the energy sector by special methods involves the transfer of functions and powers of public law management to private legal organizations.

Special methods of management in the field of energy are due to the fact that public authorities having wide opportunities in choosing the method should be guided by the direction of the country's policy. For example, the

establishment of market relations, the development of the private sector implies - freedom of entrepreneurship and independent competition between public commercial institutions with private commercial institutions.

Also, technical modernization of the energy sector requires innovative management methods from management entities and an example of this is the project of "UzbekEnergo" and KT Corporation to create a single republican data center in Uzbekistan ASCEM¹⁴, as well as an example from foreign experience, the European Commission presented in November 2010. This is the development strategy of the energy infrastructure for the period 2011-2020¹⁵. According to these plans, by 2020, a system of "smart grids" will be built by converting existing transmission networks in the EU. Such political attitudes, industrial projects and programs for the development of the electric power industry, oil, gas and coal industries, optimize the methods of legal influence on the part of state authorities.

In conclusion, it should be mentioned that Energy Law as a branch of law in the legal system of the Republic of Uzbekistan is in the process of establishment. The subsequent years of development and institutionalization of energy law take a new impetus and fast pace. This is due to such factors that firstly, this industry is supported by the political will of the country's Leadership, as evidenced by Presidential Decrees, Cabinet of Ministers and many other government programs and national strategies.

Thus, the objects of public legal regulation in the energy sector are the activities and competence of subjects of public administration in the energy sector. Theoretical bases of activity and the status of subjects of management in this sphere need to be formed at an accelerated pace with the help of public methods: borrowing from the experience of countries with similar legal systems and receiving international standards. It is also necessary to form a scientific base of research in the direction of national energy regulation.

One of the main tasks is to develop a new state doctrine of energy security of the Republic of Uzbekistan. In the direction of regulation of the energy industry, there is a national experience on the basis of which the entire management system was reorganized, resulting in the creation of a new Department, the Ministry of energy of the Republic of Uzbekistan.

The process of formation of the Institute of energy law in the Republic of Uzbekistan should be formed conceptually, on the basis of well-defined priorities such as "rational use of resources - resources should be used for the benefit of the people and the interests of the people", "energy security-the priority of environmental security and energy independence". This energy industry implies the existence of the energy Code of the Republic of Uzbekistan, which incorporates all the above principles of building these relations, as well as the principles specified and which are scattered in the relevant legal acts of the Republic.

In addition, in the direction of science, the energy law of the Republic of Uzbekistan remains relevant and is an unresolved task, such as: to develop the conceptual apparatus of energy law and to define the scientific categories; as well as the analysis (inventory) of existing legal acts of energy law in general.

¹⁴ *The Decree of the President of the Republic of Uzbekistan No. PP-3981 dated 10.23.2018 "On measures for accelerated development and ensuring financial stability of the electric power industry".*

¹⁵ *Commission Report "Energieinfrastrukturprioritäten bis 2020 und danach - ein Konzept für ein integriertes europäisches Energienetz" v. 17.11.2010. KOM (2010) 677 endg. C. 9.*

References

Wang, A. Establishment of wheat yield prediction model in dry farming area based on neural network (2018) *NeuroQuantology*, 16 (6), pp. 768-775.

Lin, Y., Zhang, H. Automatic image annotation via combining low-level colour feature with features learned from convolutional neural networks (2018) *NeuroQuantology*, 16 (6), pp. 679-685.