

ENSURING ENVIRONMENTAL SAFETY AS A PRINCIPLE OF FORMATION OF COMMON ENERGY MARKETS OF THE EAEU COUNTRIES

DOI 10.18572/2410-4396-2019-3-71-74



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In the context of formation of common energy markets, there is a need for formation of uniform approaches to legal regulation aimed at ensuring security and protection of environment, life and health of citizens, and consumer rights respectively. In this regard, it seems appropriate to draft a joint agreement on unified scientific and technical policy and main areas of scientific and technical cooperation of the EAEU countries, especially in the field of scientific and technical cooperation on problem issues of the fuel and energy complex. In such an Agreement, it would be practical to determine the principles of scientific and technical cooperation of the states included in integration associations, the main areas of research, organizational forms of cooperation, basic concepts of scientific and technical policy, and scientific and research activities. Within the framework of such an Agreement, it is possible to arrange for research on elaboration of issues in the field of protection of human life and health, environment and cultural values within the framework of the principle of ensuring environmental safety in the sectors of the fuel and energy complex in the context of formation of common energy markets of the EAEU states. The study was financially supported by the Russian Foundation for Basic Research within the framework of scientific project No. 18-29-15034.

Keywords: energy law, energy markets, energy security, environmental safety.

One of the principles set forth in the Treaty on the Eurasian Economic Union as well as in the adopted agreements on formation of common energy markets (electricity, oil, gas) is the principle of ensuring environmental safety.

Ensuring environmental safety, in particular, in the oil sector [1] has the following contents:

— the member states focus on the use of the best international practices in the field of

environmental safety of the oil sector, protection of the natural environment, life and health of citizens and consumer rights.

— the member states seek to unify the requirements and harmonize their laws in the field of environmental safety of the oil sector, protection of the natural environment, life and health of citizens and consumer rights.

— the provisions related to environmental safety are included in the international treaty on

formation of common markets for oil and petroleum products of the Union.

In general, the sphere of ensuring environmental safety covers such aspects of public relations as protection of environment, life and health of citizens, and consumer rights.

Under conditions of formation of common energy markets, there is a need for formation of uniform approaches to legal regulation aimed at ensuring security and protection of the environment, life and health of citizens and consumer rights respectively. Common principles and terminology in the laws should contribute to creation of systemic legislation that ensures strengthening of environmental and energy security, including security at the regional level, and elimination of legal disputes arising due to defects of laws in the sphere under consideration.

The concept of “safety” is an interbranch concept that is used both in different branches of law and in the economic, political and social fields of science. In the legal doctrine on definition of the concept of “safety”, there are different points of view. Definitions of the concepts of “safety”, “environmental safety”, “energy safety”, “industrial safety” are contained in regulatory legal acts of various levels.

The main terms on environmental safety are contained, in particular, in the Model Laws of the Member States of the Commonwealth of Independent States *On Environmental Safety* [2], *On Strategic Environmental Assessment* [3].

Thus, the Model Law on Environmental Safety determines that environmental safety is a system of political, legal, economic, technological, and other measures aimed at ensuring guarantees of protection of environment and vital interests of an individual and citizen against possible negative impact of economic and other activities and threats of natural and man-caused emergencies at present and in future.

The Constitution of the Russian Federation establishes the basic provisions on ensuring safety and the possibility of restricting rights in order to ensure safety.

The Order of the President of the Russian Federation No. 176 dated April 19, 2017, *On the Environmental Safety Strategy of the Russian Federation for the Period up to 2025* specifies that

environmental safety of the Russian Federation (hereinafter referred to as the environmental safety) is an integral part of national security. The strategy specifies the main challenges and threats to environmental safety, goals, tasks, and mechanisms for implementation of state policy in the field of ensuring environmental safety.

The Federal Law *On Security* defines the basic principles and content of activities relating to ensuring state security, public security, environmental safety, personal safety, other types of security provided for by the laws of the Russian Federation as well as the powers and functions of federal public authorities, public authorities of the constituent entities of the Russian Federation, municipalities in the field of security, the status of the Security Council of the Russian Federation. Thus, in particular, activities relating to ensuring security cover legal regulation in the field of security; taking of special economic measures to ensure security; arrangements for scientific activities in the field of security, etc. Special economic measures are provided for in a number of regulatory legal acts: Federal Law No. 281-Φ3 dated December 30, 2006, *On Special Economic Measures*; Federal Law No. 165-Φ3 dated December 8, 2003, *On Special Protective, Anti-Dumping and Countervailing Measures in the Import of Goods*; Order No. 560 of the President of the Russian Federation dated August 6, 2014, *On Application of Certain Special Economic Measures to Ensure Security of the Russian Federation*. The Foreign Policy Concept of the Russian Federation stipulates that the highest priority of Russia’s foreign policy is to protect interests of the individual, society and the state.

In civil law, security is ensured by special rules aimed at regulating property relations related in one way or another to the risk of harming human life and health, protection of nature and cultural values.

Therefore, regulatory acts in the field of technical regulation are important. The Law of the Russian Federation *On Technical Regulation* defines that “the safety of products and related processes of production, operation, storage, transportation, sale and disposal is a condition, under which there is no unacceptable risk associated with harm to life or health of citizens, property

of individuals or legal entities, state or municipal property, the environment, life or health of animals and plants”. The specified law contains a list of types of safety: emission security; biosafety; explosion safety; mechanical safety; fire safety; safety of products (technical devices used at a hazardous production facility); thermal safety; chemical safety; electrical safety; radiation safety of the population; electromagnetic compatibility in terms of ensuring safe operation of devices and equipment; uniformity of measurements. The list is not exhaustive. Technical regulations, which establish the minimum necessary requirements to ensure safety, are adopted in relation to the listed types of safety with due account for the degree of risk of harm. To increase the guarantees of safety of goods (work, services), at the level of technical regulations, it seems practical to determine a list of hazardous goods.

Civil laws also reflected constitutional provisions on ensuring safety and on the possibility to limit rights in order to ensure it.

Thus, in Article 1 of the Civil Code of the Russian Federation *Fundamentals of Civil Law*, it is established that civil rights can be limited on the basis of a federal law and only to the extent it is necessary in order to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, ensuring the country’s defense and state security. According to clause 5, Article 1 of the Civil Code of the Russian Federation, restrictions on transportation of goods and rendering services may be introduced in accordance with a federal law if it is necessary to ensure safety, protect human life and health, environment and cultural values.

Federal Law No. 225-Φ3 *On Compulsory Insurance of Civil Liability of the Owner of a Hazardous Facility for Damage Resulting from Accident at the Hazardous Facility* is one of the laws adopted in Russia to ensure environmental safety.

Another aspect of civil law security in property relations is awareness of participants, their right to information on safety of goods (work, services). In accordance with Article 495 of the Civil Code of the Russian Federation, the seller shall provide the buyer with necessary and reliable information on the product offered for sale,

which meets the requirements established by the law, other legal acts and standard practice of retail sales for the content and methods of provision of such information. Article 8 of the Law *On Protection of Consumer Rights* specifies the consumer’s right to information on the manufacturer (contractor, seller) and on the goods (work, services), and Article 12 of the said law establishes that in the infliction of harm on life, health and property of the consumer due to the failure to provide it with complete and reliable information on the goods (work, service), the consumer is entitled to demand compensation for such damage in the manner provided for by Article 14 of the Law, including full compensation for losses caused to natural objects owned by the consumer. The rights to information on factors affecting health are additionally guaranteed in Article 23 of Federal Law No. 323-Φ3 dated November 21, 2011, *On the Fundamentals of Human Health Protection in the Russian Federation*: “The citizens shall be entitled to receive reliable and timely information on factors contributing to preservation of health or having a detrimental effect on it, including information on the sanitary and epidemiological welfare of the area of residence, the state of the environment, rational nutrition standards, quality and safety of products for technical purposes, food products, goods for personal and domestic needs, potential danger of executed work and rendered services for human health. This information is provided by state and municipal authorities in accordance with their powers as well as by organizations in the manner provided for by the laws of the Russian Federation”.

As an example of a legal approach in the sphere of implementation of the principle of ensuring environmental safety and protecting the environment, life and health of citizens, and consumer rights, it is advisable to give an example of the provisions of Directive No. 2009/73/EC of the European Parliament and the Council of the European Union [4], which stipulates with regard to the consumer rights that “Clear and understandable information on consumer rights in the energy sector should be available to them. The European Commission, after consultation with the most important stakeholders, including the EU member states, national regulatory

authorities, consumer communities and natural gas market players, should create an accessible, easy-to-use guide for energy consumers containing practical information on their rights. This guide should be made available to all consumers and it shall be published”.

In general, it should be noted that the principle of ensuring environmental safety covering the areas of environmental protection and protection of life and health of citizens and consumer rights is universal and is reflected in the rules of almost all branches of laws: constitutional, administrative, civil, competitive, corporate, entrepreneurial, environmental, energy, etc.

Therefore, a systematic work of the legislator aimed at ensuring coordinated, consistent regulatory legal acts that generally protect human life and health, nature and cultural values in the energy sector based on consistent terminology and uniform principles is required.

In its turn, this systematic work can be ensured by appropriate research and development in the EAEU countries within the framework of a unified scientific and technical policy aimed at identification of problems as well as scientific justification for preparation and adoption of relevant documents in the field of protection of

human life and health, environment and cultural values within the framework of the principle of ensuring environmental safety in the sectors of the fuel and energy complex in the context of formation of common energy markets of the EAEU states. Therefore, it seems appropriate to develop a joint agreement on unified scientific and technical policy and main lines of scientific and technical cooperation of the EAEU countries especially in the field of scientific and technical cooperation on problem issues of the fuel and energy complex. In such an agreement, it would be practical to determine the principles of scientific and technical cooperation of the states included in integration associations, the main areas of research, organizational forms of cooperation, basic concepts of scientific and technical policy, and scientific and research activities. Within the framework of such an agreement, it is possible to arrange for research on elaboration of issues in the field of protection of human life and health, environment and cultural values within the framework of the principle of ensuring environmental safety in the sectors of the fuel and energy complex in the context of formation of common energy markets of the EAEU states. ■

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