

Strategic objectives of international and legal regulation of companies constructing power facilities in foreign countries

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Abstract. The article is considered with strategic objectives of regulating activities of Russian companies abroad. It is emphasized that the construction of Russian facilities in the energy sector abroad is a significant area of attraction for a whole range of geopolitical and economic interests of both our country and other countries interested in cooperation with Russia. The issue of preventing cross-border threats from the construction of such facilities, creating a common legal platform for countries, ensuring an orderly system of the international legal framework for investment activities is considered. The conclusion is made about a kind of “renaissance of protectionism” and a certain “rollback” in the development of liberal international trade and global energy. It is concluded that today energy security of entire regions of the planet and individual countries is becoming a hostage to geopolitical competition, as a result of which obstacles and risks arise for the implementation of large energy projects. Meanwhile, energy security becomes one of the dominant strategic objectives ensuring the sustainable development of mankind in the context of rapid economic development and climate instability on the planet.

1 Introduction

The subject studied in this article is significant in terms of the attraction of a whole range of geopolitical and economic interests of both our country and other countries interested in cooperation with Russia in the energy sector. In this regard, high-quality legal support for this activity is of particular importance. Meanwhile, such provision has a multi-layered, multi-structural nature, since it includes, in addition to the national legal, also a significant international legal component, which needs a separate study.

In particular, it is considerably interesting to define the tasks of international legal regulation of the activities of companies engaged in the construction of Russian energy facilities in foreign countries.

2 Materials and methods

Unlike the approach proposed by the International Atomic Energy Agency (IAEA) to establish reasonable criteria for assigning objects to a certain category (categorization

system), Russia uses an alternative method. Thus, the ranking of radiation hazardous objects at 5 exposure levels characterizes the following conditions: the possibility of causing harm to the environment; radiation exposure; the possibility of calculating the total dose load of external and internal irradiation, depending on the path of entry of radionuclides.

In this regard, the IAEA standards, as well as other standards for international legal regulation in the field of energy, should be especially carefully considered when building Russian nuclear power facilities abroad.

3 Results and Discussion

It seems that the following topical strategic objectives for regulating the construction activities of energy sector facilities can be identified:

1) *Prevention of cross-border threats from the construction of energy facilities, including in the environmental sphere.*

In addition to the fact that the relevant activity itself is of a transboundary nature and affects the interests of many states, the need for international legal regulation is due to the fact that energy facilities have a potential danger, and if the required standards are not observed, they can pose threats to many countries simultaneously. In this regard, the construction of such facilities, the establishment of high-quality standards for their construction, the coordination of the balance of the strategic importance of such facilities for energy security of foreign countries, on the one hand, and environmental threats, on the other hand, require coordinated efforts of many countries to develop a high-quality international legal regulation.

In order to ensure environmental and radiation safety during the construction of energy facilities abroad, domestic companies must comply with international legal standards contained in the recommendations of the International Atomic Energy Agency (IAEA).

It shall be noted that in some cases, the standards applied to construction sites in Russia and according to international IAEA standards may differ.

2) *Creation of a common legal framework for countries representing different legal systems with a difference in legal institutions, terms and concepts, legal structures.*

By adopting international legal standards, the difference in legal approaches to certain legal concepts and phenomena that exists in different countries and can be very tangible if Russian companies representing our country as a country of the Romano-Germanic legal family; carry out the construction of energy facilities abroad, in countries belonging to other legal families with their own legal culture, traditions, legislation, legal principles and mentality (for example, in the countries of the Anglo-Saxon legal family, the legal family of Muslim law).

For example, the construction of Russian energy facilities abroad can be carried out on the basis of the construction contract. However, such contract can be interpreted and applied in different ways, as well as regulated by establishing different legal structures in the legislation of different countries. These features must certainly be taken into account so that this does not entail negative legal consequences.

3) *Summarizing the best foreign models and international practices in the relevant field.*

The development of international legal regulation is often based on the principle of generalizing the best practices in a particular area of various states. In turn, subsequently, the international legal standard can serve as a model for improving legislation within individual states.

4) *Creation of a mechanism to prevent the negative impact of geopolitical competition in the energy sector.*

Currently, the construction of Russian energy facilities in foreign countries often becomes the object of close attention of our geopolitical competitors. The creation of obstacles to the implementation of energy projects (for which a wide range of means are used – from direct political pressure to indirect influence through accusations of environmental threats) is acquiring an unprecedented scale.

In such a situation, the norms of international legal regulation can be regarded as methods of struggle against unfair competition in the construction of Russian energy facilities.

For example, politically motivated improper sanctions can be seen as violating the principles of free trade established by the WTO documents.

5) *Ensuring an orderly system of the international legal framework for investment activities, including the construction of energy facilities abroad.*

By influencing the formation of interrelated international legal standards' system in the field of energy, Russia thereby contributes to the creation of a more transparent and effective legal regulation mechanism of the construction of Russian energy facilities abroad.

The Energy Charter Treaty (ECT), which will be discussed below, is considered to be the first multilateral international treaty to establish the rules for grid-based energy transit. The multilateral agreements on the transit of goods that existed at the time of the conclusion of the ECT did not reflect the specifics of network transit, which is of key importance in the energy sector.

Significant legal norms protecting the rights of foreign investors in the energy sector, including Russian investors, are contained today in such an important international document as the Energy Charter Treaty. This document is an essential element in the process of interaction between countries in the energy sector and provides the necessary legal platform for the possibility of creating an open international energy market; this agreement is also open to other countries that adhere to its principles.

Notwithstanding the ambiguous attitude of the leading states towards it, this document played a positive role in the formation of the sectoral investment regime.

This document establishes the protection of the rights of foreign investors, namely, creates equal and favorable conditions for investors, provides investments to investors from other parties to the agreement (equal and fair treatment). Such investments are protected in such a way that neither party has the right to create an obstacle in the form of unfair or prejudicial measures to maintain, regulate and manage them. Such investments are not provided with a less favorable treatment than that prescribed by international law, incl. contractual obligations.

6) *Ensuring a favorable tax regime for investment activities during the construction of Russian energy facilities abroad.*

The tax regime for investment activities is established by the state on the territory of which the energy facility is being built; accordingly, it is subject to its legislation. Russia cannot influence which legal norms will be adopted and will act in this or that case. However, there is the promoting international legal mechanism of bilateral treaties.

4 Conclusions

In general, the analysis of some modern trends in international trade and investment, including the energy sector, allows, in our opinion, to draw the conclusion about a kind of "renaissance of protectionism" and a certain "rollback" in the development of liberal international trade and global energy. Today, energy security of entire regions of the planet and individual countries becomes hostage to geopolitical competition, as a result of which obstacles and risks arise for the implementation of large energy projects, or they are completely thwarted (like the South Stream project, which was never implemented along the bottom of the Black Sea to the Bulgarian port of Varna). Meanwhile, energy security becomes

one of the dominants in the strategic objectives for ensuring the sustainable development of mankind in the context of the rapid pace of economic development and climate instability on the planet.

In order to prevent the growth of negative trends in the world energy and in the field of interaction between states in the energy sector, it is necessary to expand cooperation between countries, especially in the international legal sphere. This article outlines some of the strategic objectives of the international legal regulation of the construction of energy facilities by Russian companies in foreign countries, which contribute to the improvement of this area of the Russian geopolitical presence abroad.

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