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Research summary

An analysis of the Russian legislation suggests that some of the principles of sustainable development are reflected in the regulatory legal acts of the Russian Federation and have been consolidated in a number of regulatory legal acts of environmental legislation. However, there is no consistent focus on ensuring sustainable development in the system of legislative acts of Russian environmental legislation.

The development of a circular economy in Russia is unstable and unsystematic: although individual projects are being implemented in different cities of the country, at the legislative level, initiatives to introduce such an economic model have not yet been discussed. Among them are the Spasibo charity stores in St. Petersburg and the Charity Shop in Moscow, which recycle clothes; the company “UFO-Pererabotka”, which processes plastic into building materials, and the manufacturer of packaging "Opticom", which lays down the condition of “recyclability” in its design and builds the cycle of packaging containers, collecting them from their customers and recycling them.

Large companies in Russia mainly sought to implement projects for the collection and processing of recyclable materials or as part of social and environmental responsibility. Examples include the use of recyclable materials in the production of goods at IKEA, the acceptance of old clothes in H&M stores, and the recycling of Tetra Pak packaging. In November 2016, Coca-Cola Russia launched the “Share with Us” project for the separate collection and disposal of consumer packaging.

Currently, the *Concept of Extended Environmental Responsibility (EER) of Producers and Importers* has received wide discussion. According to the Ministry of Natural Resources of Russia, the implementation of the EER mechanism in the period 2016-2019 showed its low efficiency: “Producers and importers of goods often ignore the fulfillment of EER obligations, which leads to non-compliance with recycling standards and low collection of environmental fees.” In this regard, the search for new vectors for the development of the EER concept is currently under way. Thus, it is proposed to provide a mechanism for the implementation of EER only by paying an environmental fee for the production or import of packaging (it is planned to be charged as for a finished product). Funds from this collection are supposed to be provided to the Russian environmental operator to meet the standards for waste disposal from the use of goods, as well as to finance investment projects in the field of waste management, construction works, reconstruction, modernization of capital construction facilities necessary for carrying out activities in the field of waste management. In turn, the business community notes that the new Concept was developed without taking into account its opinion. In particular, the concerns of representatives of the business community boil down to the following:



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The draft Concept radically changes the EER strategy in the country, introducing a purely fiscal mechanism in the form of mandatory payment of an environmental fee without the possibility of self-disposal of produced or imported goods subject to disposal after the loss of consumer properties. Such unpredictability of regulatory policy has an extremely negative impact on the country's investment climate;

The draft Concept provides unconfirmed data on the provision of fictitious reports by enterprises on the implementation of waste disposal standards;

The draft Concept provides for the creation of a single monopolist in the field of handling all types of waste. The non-competitiveness of the sphere will contribute to the ineffective management of the existing infrastructure and can lead to exorbitant expenses for the maintenance of its apparatus, etc.;

The draft Concept provides for the transfer of responsibility for the implementation of the EPR from producers of goods in packaging to producers of packaging. However, there is a possibility that this measure could negatively affect the principles of eco-design of packaging, which are designed by manufacturers of the final products. Shifting responsibility for disposal to packaging manufacturers can cause additional harm to the environment, since manufacturers of goods in packaging will not be interested in its further disposal.

The draft Concept does not disclose the procedure for making decisions on spending the funds collected within the framework of the administration of the environmental fee, and also does not reflect measures to improve the management of the process by the regulatory authorities.

The exclusion of the possibility of independent fulfillment of EER obligations through recycling, which was initially positioned as a priority tool for stimulating waste disposal activities, will lead to the termination of large-scale projects created by companies to build a system for the collection, transportation and disposal of waste, taking into account the spread of programs in the regions, the gradual progressive development of capacities and infrastructure of processors waste (for example, in industries such as electronics, tires, packaging).

In addition, the proposed changes will entail for the business the loss of its investments in the infrastructure for the collection and disposal of waste made within the framework of the organization of self-disposal, including through industry associations. According to many international companies that are large investors, predictability and consistency of legislative regulation are very important.

Table 4. Key problems and threats of the new EER concept

| Problems | Threats | Solutions |
|---|--|--|
| Cancellation of self-disposal | Resetting the results of separate collection and disposal programs run by the business | Preservation of the possibility of self-disposal |
| Raising the recycling rate to 100% | Increase in prices for goods from 10% to 22% | Progressive increase in recycling standards |
| Transfer of responsibility for the implementation of the EER to packaging manufacturers | Increased waste generation, additional price increases | Preservation of the circle of payers of the EER established by law |
| One approach for all types of waste | Building an ineffective waste management system | Sectoral approach to the implementation of EER |

At the same time, the EPR mechanism, taking into account numerous amendments to the relevant regulations, actually began to operate only in 2018 and it is premature to assess its insolvency.

In the field of energy saving, the main hopes are associated with the ***Federal Law “On Energy Saving and Increasing Energy Efficiency”*** No. 261-Federal Law of November 23, 2009, which regulates the legal, economic and organizational framework for the implementation of energy saving measures. Among the steps outlined in the Law to achieve energy efficiency are mandatory labeling of products for energy efficiency and a reduction in the use of non-energy efficient equipment. In addition, for the first time, the Law introduced mandatory requirements for the transition to payments for energy resources using metering devices, for issuing energy efficiency certificates for new buildings and structures, as well as requirements for budgetary institutions from 2010 to annually for 5 years to reduce energy costs by 3% in relation to the level of 2009. An important innovation was the mandatory energy audit every five years for organizations with a certain amount of energy consumption. However, in accordance with the state report on the state of energy conservation and energy

efficiency improvement in the Russian Federation for 2019, presented by the Ministry of Economic Development of the Russian Federation, key indicators were not achieved, in particular:

1. Over the past 10 years, the energy intensity of the Russian Federation's GDP has decreased by only 9%, the last 4 years, the energy intensity of the GDP has not decreased.
2. The goal of reducing the energy intensity of the GDP of the Russian Federation by 60% 1, while maintaining the current rates, will be achieved only in 2043, with a significant backlog of the plan.
3. The total investment in energy saving and energy efficiency is insufficient: in 2018, it amounted to 0.2% of the total GRP of the Russian Federation. The share of private investment is declining. The spread of specific indicators of investment in energy saving among the constituent entities of the Russian Federation reaches almost 300 times.

Nevertheless, positive trends were also presented in the report. For example, it was noted that the economy of the Russian Federation has a significant potential for energy saving. The energy intensity of the Russian GDP is 46% higher than the world level, the level of Canada - by 17%. Realization of the accumulated potential will allow freeing up significant additional volumes of fossil fuels for export, "greening" the balance of consumed energy, reducing emissions into the atmosphere, and improving the quality of life. In addition, the key potential driver in reducing the energy intensity of the Russian Federation's GDP in the most energy-intensive sectors of the economy: energy, manufacturing, transport and housing and communal services is the technological factor. The report noted that improved energy efficiency can be achieved through the introduction of advanced technologies, for example, combined cycle power plants, combined heat and power plants, electrification and gasification of transport, modern energy-efficient building structures and thermal insulation materials, variable speed drive units, energy-efficient lamps and lighting control systems. , individual heating points with weather regulation, modern metering devices for the consumption of energy resources.

Among the reasons for the ineffectiveness of the implementation of measures within the framework of the law are the following:

1. The absence of prohibitive, restrictive or coercive measures in terms of ensuring the energy efficiency of buildings and structures, especially residential buildings and industrial facilities under construction, it turned into a formality: most developers actually did not follow the path of real implementation of energy-saving and energy-efficient technologies, but ascertaining them within the framework of the section of the project with further departure from execution upon the commissioning of the building.

2. Rather formalized procedure for energy audit. At a certain point, conducting an energy audit for most of the objects that must be subject to it turned into a profanation - into drawing up a document without visual and instrumental energy control.
3. Substantial changes to the Law by other legislative acts (36 amendments). In particular, we are talking about the provisions of Chapter 4, devoted to energy inspection and the activities of self-regulatory organizations. If earlier the law spoke about the mandatory energy inspection of a number of persons (state and municipal authorities, government agencies, organizations with regulated activities, etc.), then gradually, excluding individuals from the general list, they came to the concept of “voluntary energy inspection”, which does not oblige anyone to anything. The existing energy audit organizations, which are members of self-regulatory organizations in the field of energy inspection, who recruited energy specialists and bought equipment and measuring devices, were essentially out of work.
4. Energy service agreements (contracts) have not become widespread, since they often required the customer or the energy service company to use their own or borrowed funds with a difficult-to-predict return on equipment and work performed.

Speaking of *national projects*, reference should be made to the interim results of the analysis of the implementation of national projects published by the Accounts Chamber (as of January 2020). In particular, the Report on the results of the expert and analytical event “Monitoring the implementation of the activities of the *national project “Ecology”*, including the timeliness of their financial support, achievement of goals and objectives, milestones, as well as the quality of management” noted the following:

Positive results: the national project takes into account the goals and objectives in the field of ecology, set by the Decree of the President of the Russian Federation dated May 7, 2018 No. 204. An integrated approach to solving existing environmental problems in the main areas is provided: waste, air, water, biodiversity and the best available technologies ... In 2019, a reform on the management of municipal solid waste was launched. In 12 constituent entities of the Russian Federation, work has begun at 48 objects included in the state register of objects of accumulated environmental damage. At the end of 2019, it is planned to complete work on the elimination of 16 unauthorized landfills within cities and 17 most dangerous objects to the environment. In the regions, an inventory of water supply facilities was carried out, in 16 constituent entities of the Russian Federation, the state of wastewater treatment systems discharged to the Volga River was assessed. In 82 constituent entities of the Russian Federation, measures are being taken to clean up debris from the banks and adjacent water areas of water bodies. Measures for reforestation and afforestation are being carried out, forest fire and forestry machinery and equipment are being purchased.

Negative results: the national project does not cover issues related to climate change, restoration of the quality of soils contaminated with oil products, pesticides and other persistent pollutants. At the same time, the growth of economic activity will increase the negative impact on the environment and may lead to a deterioration of the environmental situation in the Russian Federation.

According to the Report on the interim results of the expert and analytical event “Monitoring the implementation of the national project “Small and Medium Enterprises and Support for Individual Entrepreneurial Initiatives””, it was revealed that some persons receive funds, while others are responsible for achieving the goals of the national project. Thus, more than 260 billion rubles, or 63% of the federal budget funds for the implementation of the national SME project is planned to be allocated in 2019-2024 to JSC SME Corporation, JSC SME Bank, Russian credit institutions, etc., which are not responsible for achieving target indicators of the national SME project (the number of people employed in the SME sector, the share of SMEs in GDP, the share of exports of SMEs in non-primary exports). At the same time, the senior officials of the constituent entities of the Russian Federation, who are responsible for the achievement of these indicators and the development of SMEs in the regions, do not affect the distribution of resources and the activities of recipients of resources.

The Report on the interim results of the expert and analytical event “Analysis of planning and implementation of activities of the national project “Labor productivity and employment support””, including an assessment of the balance of goals, objectives, indicators, activities and financial resources, as well as its compliance with the long-term goals of socio-economic development of the Russian Federation ”some shortcomings related to the development and implementation of the national project were noted. Thus, the planned results and activities of the national project may not be enough to achieve national goals, including the entry of the Russian Federation into the five largest economies in the world, the methods for calculating labor productivity indicators require adjustment, the timing of calculating the values of the indicators of the national project within the framework of the Federal Plan of Statistical Work do not allow assessing the likelihood of achieving the planned goals in a timely manner for prompt management decisions.

In 2014, the Federal Law “On Amendments to the Federal Law” On Environmental Protection and “Certain Legislative Acts of the Russian Federation” dated July 21, 2014, amended the *Law on Environmental Protection and* other legislative acts “launching” the process of environmental modernization of production that have the greatest impact on the environment, based on the **best available technologies** (hereinafter - BAT).

Thus, *Federal Law - 219* defines the best available technology as “a technology for the production of products (goods), performance of work, provision of services, determined on the basis of modern achievements of science and technology and the best combination of criteria

for achieving environmental protection goals, provided there is a technical feasibility of its application”.

The combination of these criteria for determining BAT are:

- the lowest level of negative impact on the environment per unit of time or volume of products (goods) produced, work performed, services rendered;
- economic efficiency of technology implementation and operation;
- application of resource and energy saving methods;
- the period of technology introduction;
- industrial implementation of this technology at two or more facilities that have a negative impact on the environment.

These criteria in their meaning correspond to the criteria for determining BAT given in the EU Industrial Emissions Directive (IED Directive), which is undoubtedly positive, since it will allow more complete use of European reference books. Over time, EU countries will be able to use Russian reference books when searching for BAT. The introduction of such criteria allows us to hope that considerations of “cheapness” will no longer play a decisive role in the choice of production technology for a particular product. Environmental issues will not be considered on a "leftover basis" after the technology has been selected and evaluated, and if there is money left for “ecology”. Now the problems of environmental safety and economic efficiency of production are of equal importance, and the arguments of ecologists and economists will be assessed with equal attention when issuing an integrated environmental permit for production activities.

The “complexity” of the permit is that it considers both all types of negative impact of production on the environment, as well as the optimization of the consumption of raw materials, water, energy and other resources. Since the procedure for such a permit will be rather complicated, in order to reduce the administrative burden on business, the largest polluters, that is, those enterprises that pose the greatest threat to the environment and public health, receive an integrated environmental permit based on BAT for a period of 7 years.

The law provides for the division of all objects that have a negative impact on the environment into four categories, depending on the level of such impact:

- objects that have a significant negative impact on the environment and related to the areas of application of the best available technologies - objects of category I;
- objects that have a moderate negative impact on the environment - objects of the II category;

- objects that have a slight negative impact on the environment - objects of the III category;

- objects that have a minimal negative impact on the environment - objects of IV category.

Important concepts of the law are “*technological indicators*” and “*technological standards*”. Technological indicators are called “indicators of the concentration of pollutants, the volume of emissions of pollutants, waste generation, water consumption and the use of energy resources per unit of time or unit of products (goods), work performed, services provided.” This indicator, in terms of emissions, in its meaning corresponds to the “BAT emissions level” of the IED Directive.

Enterprises of the second and, possibly, the third category would be good objects for issuing permits on the basis of “*general norms of action*” (*GNA*), but such a mechanism, which has proven itself well in the EU member states, is unfortunately not provided for in the law.

GNA are standard, typical solutions for typical sources (installations). GNAs include standards based on advanced technical advances, requirements for certain operating methods, and conditions for monitoring, accounting and reporting. GNA should cover a significant number of similar objects, so that the development of GNA is cost-effective, and the requirements are prepared taking into account the experience of managing such objects. Recommendations for GNA for Russia:

- Norms of general action should be developed for all groups of organizations that national legislation (will) be classified as such, receiving permits in accordance with the GNA.

- GNA can contain both a descriptive part (mainly - in terms of general management principles) and numerical parameters (mainly - specific indicators of environmental performance - “entry” and “exit”).

- For enterprises of II and III categories, it is advisable to develop simplified rules and recommendations, adhering to the general principles of GNA.

- It is advisable to include an article on GNA in Federal Law-219.

The law provides that the introduction of BAT at Category I enterprises is the process of environmental modernization of an enterprise that has a negative impact on the environment, using technologies described in information and technical guides on the best available technologies and (or) “whose impact indicators on the environment are not must exceed the established technological indicators of the best available technologies ”. This is a very important position, where the union “or” plays a key role. It is assumed that the enterprise has the opportunity not to follow the technology described in the reference book “from a to z”, but



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to use any other technology, the indicators of which do not exceed the values specified in the normative documents on BAT.

Under certain conditions, the law allows for the existence of temporarily permitted emissions and discharges. A permit with emissions and discharges that are softer than required by the technological indicators of BAT can be issued by an existing enterprise in the presence of an environmental protection action plan or an “environmental efficiency improvement program”.

The state provides assistance in the implementation of investment activities aimed at introducing the best available technologies. Let's pay attention to the refusal of the state from collecting payments for environmental pollution from enterprises that have implemented BAT. The rest of the incentive norms are not new. The experience of industrial enterprises known to the authors suggests that it was extremely difficult to obtain these benefits.

But recently, enterprises have the opportunity to obtain direct financing for the implementation of environmental modernization of production. Thus, the Federal Law “On Industrial Policy in the Russian Federation”, adopted by the State Duma in the third reading on December 17, 2014, provides, in particular:

- provision of subsidies for financing the creation or modernization of industrial infrastructure, including using the best available technologies, as well as for the development of industrial production;
- providing financial support to organizations when implementing projects to improve the level of environmental safety of industrial production, including through the use of the best available technologies;
- stimulating the use of the best available technologies in industrial production.

Subsidies can be provided both by state and municipal authorities, and through specially created state Industrial Development Funds.

In addition, Russian President Vladimir Putin approved a list of instructions following the meeting of the State Council on the issue of “Environmental development of the Russian Federation in the interests of future generations”, held on December 27, 2016 (“List of instructions following a meeting of the State Council”). The instructions were formulated as a result of the analysis of the State Report and discussion at a meeting of the State Council of the prospects for sustainable development of Russia.

As one of the main development goals of the country in 2017-2025 determined the transition of Russia to a model of environmentally sustainable development, which allows to

ensure in the long term the effective use of the country's natural capital while eliminating the impact of environmental threats on human health.

The Instructions contained a clarification of the procedure for issuing integrated environmental permits, in particular, the exclusion from the list of objects of state environmental expertise of materials for justifying an integrated environmental permit

An integrated environmental permit must be issued:

- on the basis of the positive opinion of the expert commission and the establishment of the compliance of the requested conditions with the integrated environmental permit with the requirements determined by the legislation in the field of environmental protection,

- including the compliance of the calculated technological standards for emissions and discharges, as well as physical influences, with the established requirements for the calculation of standards and technological indicators given in the industry-specific BAT Reference Book (References);

- on the basis of the program of industrial environmental control approved by the expert commission;

- based on the results of the consideration, and in the presence of approvals (no objections) federal executive authorities;

- based on the recommendation of the conciliation meeting (if any).

It would be advisable to develop in the near future:

- industry guidelines for preparing an application (and ensuring compliance with BAT requirements);

- norms of general validity (standard rules) for widespread facilities located on the territory of enterprises of category I and not related to the scope of BAT;

- national standards for industrial environmental control.