

2023



PPGD

PROGRAMA DE PÓS-GRADUAÇÃO EM
DIREITO • UNIRIO

REVISTA DIREITO DAS POLÍTICAS PÚBLICAS

Law and Public Policy Review

ISSN 2675-1143

Volume 5, n. 2

Julho - Dezembro

Qualis B2



Revista do Programa de Pós-Graduação em Direito da
Universidade Federal do Estado do Rio de Janeiro
(UNIRIO)

 <http://seer.unirio.br/rdpp/index>

 rdpp@unirio.br

REVISTA DIREITO DAS POLÍTICAS PÚBLICAS

LAW AND PUBLIC POLICY REVIEW

VOLUME N.º 5 – NÚMERO 2

ISSN 2675-1143

Editor-Chefe:

Profa. Dra. Edna Raquel Hogemann, Universidade Federal do Estado do Rio de Janeiro

Vice Editor-Chefe:

Prof. Dr. Oswaldo Pereira de Lima Junior, Universidade Federal do Rio Grande do Norte

Rio de Janeiro, 2023

Climate Challenges to Sustainable Development in the 21st Century

Maria Alexandrovna Egorova⁹⁸

*Kutafin Moscow State Law University (MSAL). Professor of Competition Law Department.
Moscow. Russian Federation.*

Y. G. Shpakovskii⁹⁹

*Kutafin Moscow State Law University (MSAL). Professor, Ecological and Natural Resources
Law Department. Moscow. Russian Federation.*

Daria Vladimirovna Ponomareva¹⁰⁰

*Kutafin Moscow State Law University (MSAL). Deputy Head of the Legal Practice
Department. Moscow. Russian Federation.*

Natalia Chelysheva¹⁰¹

*Ural Institute of Management, RANEPa. Head of the Department of Civil Law and Process.
Ekaterinburg. Russian Federation.*

Yuri Alexandrovich Kanzer¹⁰²

*Volgograd Institute of Management (VIU), branch of RANEPa. Associate Professor,
Department of Financial and Business Law. Volgograd. Russian Federation.*

RESUMO

O problema de examinar os mecanismos jurídicos de implementação dos princípios básicos do desenvolvimento sustentável diante dos desafios climáticos, bem como de sistematizar e coordenar o conjunto da regulação jurídica de natureza ambiental e climática, é de extrema relevância. O artigo trata de questões atuais relacionadas ao componente climático da política ambiental e econômica da União Europeia e de seu impacto na garantia dos interesses econômicos nacionais da Federação Russa. Demonstra-se que, na atualidade, as questões de mudança do clima são consideradas no contexto dos problemas gerais da política global, como ilustra a Cúpula Mundial do Clima da ONU realizada em Glasgow. Os autores concluem que, na prática estrangeira, as questões do aquecimento global estão se tornando não apenas um instrumento para assegurar a segurança ambiental, mas

ABSTRACT

The problem of scrutinizing the legal mechanisms for implementing the basic principles of sustainable development in the face of climate challenges as well as systematizing and coordinating the totality of legal regulation of environmental and climate nature is extremely important. The article deals with topical problems of the climate component of the environmental and economic policy of the European Union, their impact on ensuring the national economic interests of the Russian Federation. It is shown that today the issues of climate change are considered in the context of the general problems of global politics, as illustrated by the UN World Climate Summit held in Glasgow. The authors conclude that in foreign practice the issues of global warming are becoming not only a tool for ensuring environmental safety, but a convenient mechanism for solving economic problems.

⁹⁸ Orcid: <https://orcid.org/0000-0002-0227-8845>

⁹⁹ Orcid: <https://orcid.org/0000-0002-7559-1533>

¹⁰⁰ Orcid: <https://orcid.org/0000-0003-0787-0554>

¹⁰¹ Orcid: <https://orcid.org/0000-0003-0173-851X>

¹⁰² Orcid: <https://orcid.org/0009-0002-1479-1301>

também um mecanismo conveniente para a solução de problemas econômicos. Mostra-se que, no momento, o processo de transição para o desenvolvimento sustentável, tanto no cenário mundial quanto na Rússia, se desenrola com contradições e dificuldades significativas. Uma das principais razões é que, nos modelos decisórios mencionados, o componente econômico do desenvolvimento sustentável, fundamental para o setor empresarial, acaba ficando em segundo plano. O artigo busca o aprimoramento dos mecanismos jurídico-ambientais de garantia da segurança climática, com o objetivo de impulsionar uma política estatal ambiental (climática) equilibrada, em face das novas condições econômicas e políticas do desenvolvimento socioeconômico da Rússia.

PALAVRAS-CHAVE:

Direito ambiental; segurança climática; políticas públicas; Doutrina Climática da União Europeia; planejamento estratégico; União Europeia; Cúpula Mundial do Clima da ONU; desenvolvimento sustentável.

The authors show that at present the process of transition to sustainable development both in the global world and in Russia is proceeding with tangible contradictions and difficulties. One of the main reasons is that in the indicated decision-making models, the economic component of sustainable development, which is fundamental for business, goes by the wayside. The article is aimed at improving environmental and legal mechanisms for ensuring climate security in order to advance a balanced state environmental (climatic) policy in the new economic and political conditions of Russia's socio-economic development.

KEYWORDS:

Environmental law; climate security; public policies; EU Climate Doctrine; strategic planning; European Union; UN World Climate Summit; sustainable development.

1. INTRODUCTION

At the beginning of the 21st century the scientific community commenced to discuss the problem of climate change, their impact on socio-economic development, food and energy security of the world's states. The range of opinions about the threat of a climate catastrophe is measured from the most apocalyptic to the complete denial of these threats. A cluster of international legal and national documents (strategic planning documents, laws, regulations of various levels) has been formed (over the years) on climate and environmental security issues.

Moreover, in the coming decades, the problem of climate change will be acute - as will be attempts to suspend the process, slow it down and adapt to new conditions.¹⁰³

The fundamental document regulating international cooperation in the field of climate change is the UN Framework Convention on Climate Change (UNFCCC), proposed for signing at the Earth Summit in Rio de Janeiro in 1992 and entered into force in 1994. The Convention has become the basis for the further development of not only international agreements in the field of climate change, but also national policies and measures, including in the Russian Federation.¹⁰⁴

An important step in the advancement of climate policy was the implementation of the Kyoto Protocol to the UNFCCC, adopted in 1997.¹⁰⁵ The Protocol established legal conditions and put into practice economic mechanisms aimed at stimulating measures to reduce the impact on the climate system. Decree of the President of the Russian Federation No. 861-rp dated December 17, 2009 adopted the Climate Doctrine of the Russian Federation, which formulated the goals, basic principles of climate change policy, its content, measures and subjects of implementation. Finally, in December 2015, at the 21st Conference of the Parties to the UNFCCC in Paris, the Paris Climate Agreement was adopted, which Russia joined in 2019 (Decree of the Government of the Russian Federation of September 21, 2019 No. 1228).

The main question remains - how to make climate change become not just a challenge of our time, but an incentive for the transition to a new model of socio-economic development that allows civilization continue to exist?

103 Zhavoronkova N.G., Shpakovsky Yu.G. Ecological (climatic) component of the national security strategy of the Russian Federation // *Laws of Russia: experience, analysis, practice*. 2021. No. 12. Pp. 43-50.

104 Law in the context of global climate change // Under the general editorship of Professor V.V. Blazheev, Professor M.A. Egorova // *Prospekt*, M.: 2022.

105 The document was ratified by Russia in 2005 (Federal Law of November 4, 2004 No. 128-FZ).

2. DISCUSSION

It seems logical that the solution of climate problems should be carried out in the context of achieving sustainable development goals. However, the process of transition to sustainable development in the global scale, and in Russia in particular, comes with tangible contradictions and difficulties. To date, about two hundred states have signed the UN Sustainable Development Goals and active measures have already been taken to implement them. However, according to the United Nations Sustainable Development Goals Report, no country is on track to meet all 17 goals. There is a noticeable lag in all 169 sustainable development tasks. The most significant is a noticeable lag in four key goals (directions), including: reducing excessive inequality, mitigating climate change, problems of biodiversity reduction and waste management. According to Academician of the Russian Academy of Sciences Porfiriev B.N. there are two main reasons for this state of affairs.¹⁰⁶

First, the underestimation in the strategy and tactics of the actions of states of the inextricable, organic connection of the three dimensions of sustainable development, and as a result, relegation to the background of one of the most important goals of sustainable development - promoting inclusive economic growth and providing decent jobs for all those employed in the economy.

Secondly, a shift in priorities in the system of these goals, with hypertrophy towards “the fight against climate change”, unjustified politicization of this sphere. A fundamental question arises: what to do and how to solve this problem in the context of the entire range of sustainable development tasks, since, for all its significance, the problem of climate change is not the only or even the main risk of sustainability.

Let us turn to the Paris Agreement, where it is clearly stated that the solution to the problems of climate change must be carried out in the context of the implementation of sustainable development objectives. In addition, it is also clearly articulated that in achieving the goal of sustainable development related to climate change, three main areas of action are equivalent: reducing greenhouse gas emissions, absorbing greenhouse gases that are already in the atmosphere, and adapting humans, economies, and ecosystems to changing climatic conditions. However, at present, we see how, within the framework of the Paris Agreement, the

106 Sustainable development, climate and economic growth: strategic challenges and solutions for Russia / B. N. Porfiriev. - St. Petersburg: SPbGUP, 2020. - 40 p.

solution of the problems of socio-economic development is being adjusted to the solution of climate problems.¹⁰⁷ This is noticeable when referring to European climate law, which came into force in 2021.

It should be noted that climate change is one of the global problems for which the underlying mechanisms of processes are not fully understood. One thing is clear, global warming can lead to changes in extreme meteorological and climatic conditions in Russia.

At the same time, it must be taken into account that the climate agenda has been and will be the scene of the most intense competition, and the motives for global temperature rise can be used as a political, economic, and even military factor.¹⁰⁸

In July 2021, a new National Security Strategy of the Russian Federation (Strategy-2021)¹⁰⁹ was approved by decree of the President of the Russian Federation. One of the key components of the Strategy was the block devoted to environmental protection, which is extremely important for ensuring sustainable socio-economic development and national security of the state.

High-waste energy policies, overuse of non-renewable natural resources, lack of clean water, loss of the planet's forests are just some of the issues that people need to address in order to achieve sustainable development on Earth. All these issues are somehow connected with climate change on the planet.

It should be emphasized that recent years have been marked by aggravation of environmental, climatic, epidemiological, and energy problems, and have added sharpness to the confrontation between the bloc of Western countries and Russia. In many ways, Strategy 2021 has set new priorities, redistributed emphasis, identified new threats and goals, and fundamentally changed the assessment of the future for the country. The Strategy 2021 notes that “the increased attention of the world community to the problems of climate change and the preservation of a favorable environment is used as a pretext to limit the access of Russian companies to export markets, curb the development of Russian industry, establish control over transport routes, and hinder Russia's development of the Arctic.”

107 Sustainable development, climate and economic growth: strategic challenges and solutions for Russia / B. N. Porfiriev. - St. Petersburg: SPbGUP, 2020. - 40 p.

108 <https://energypolicy.ru/klimaticheskaya-povestka-versiya-2-0/energetika/2021/14/16/>. Forecasts are known about future wars for clean water, for natural landscapes, for territories with a temperate climate.

109 Decree of the President of the Russian Federation of July 2, 2021 No. 400 “On the National Security Strategy of the Russian Federation”.

Recall that the National Security Strategy of the Russian Federation is a key planning document, document of the first (highest) level in the strategic planning system, and its adoption requires adjustment of already adopted documents (concepts, doctrines, etc.). At the same time, the erroneous identification of the global climate agenda with current environmental problems and issues of environmental conservation leads to the absence of strategic adaptation plans for entire sectors of the economy. However, satisfaction with the current state of affairs and unwillingness to carry out reforms now can lead to much larger losses in the near future.¹¹⁰

Russia approached mid-2021 (by the time the EU climate law was adopted) with an almost complete absence of effective regulatory and legislative initiatives that would meet the country's strategic needs on the climate agenda: protecting its own markets, companies and the economy as a whole and the opportunity to join the struggle for leading positions in the formation of the mechanisms of world climate policy. This gap should be filled in the coming years.

The climate problem was also raised at the Gaidar Forum 2022 – “Russia and the World: Priorities”. It was emphasized that today the “Energy Strategy until 2035” requires significant adjustments, because it was developed at a time when there was no solution to the energy transition problem for our country. At the same time, on the basis of the current Energy Strategy, it was planned to advance the oil, gas and coal industries, as well as the electric power industry.¹¹¹ The energy transition will require the restructuring of many sectors of the Russian economy, such as industry, agriculture, construction and metallurgy. And this, in turn, will require a revision of the social policy of the state in order to prepare people for change. In addition, completely new industries will be established, for example, hydrogen energy, carbon utilization.¹¹²

The UN World Climate Summit, held in the city of Glasgow (Scotland) from October 31 to November 12, 2021, intensified the discussion of the climate agenda to the limit in both scientific and economic, political and expert circles.

110 New global climate agenda as a way to contain Russia - Parliamentary newspaper.

:<https://www.pnp.ru/social/novaya-mirovaya-klimaticheskaya-povestka-kak-sposob-sderzhivaniya-rossii.html>

111 Currently, there is an instruction from the President of the Russian Federation to revise the energy strategy, and not until 2035, but until 2050, and there will be new goals and components that take into account the challenges of the new time

112 <https://rg.ru/2022/01/13/o-chem-govorili-na-gajdarovskom-forume.html>

The results of the Summit turned out to be far from planned and expected. The experts were managed to reach a consensus on “fossil fuel” (coal) and the need not only to reduce its production and use, but also to stop within 10-20 years; about the role of forests in carbon absorption, limiting methane emissions. In general, all states were unanimous that the climate threat exists and urgent measures are needed to eliminate it and advance “decarbonization”, “energy transition”, “carbon neutrality”, “green energy”.

In a paradoxical way, in our opinion, the climate summit exposed the following (known, but not advertised) problems to the utmost.

Firstly, the environmental and climate agenda is not the lot of public organizations, but the prerogative of states, part of their national security system.

Secondly, climate issues are a relatively convenient excuse for economic and regulatory expansion. If at the level of the UN, WTO, NATO and other organizations the obligation of states to comply with certain environmental and climate obligations is recognized, then the possibility of any interference in the internal affairs of states that do not comply with climate rules will be legalized.

Thirdly, highlighting the legal aspects of the climate component of international legal concepts, we can note the beginning of their practical breakdown. In fact, the EU climate legislation contradicts both WTO laws and many doctrines of international law.

In addition, the UN Climate Summit showed that the climate agenda has many dimensions (levels, meanings) and characteristics (consequences). This is global, connected with the status of the UN, the WTO, economic cooperation and rivalry, it is also international, including bilateral relations, but creating (covering) zones of interests of other countries (Nord Stream-2, construction of nuclear power plants, etc.). There are also the state (national economy, security, energy), regional, local and individual levels.

This objectively implies that our country should have its own, constructive and voiced international legal, environmental and climate strategy and position, reflecting both national and global interests. The absence of such a position or its vagueness, half-heartedness, duality means a deliberate loss in the global climate competition.

According to Professor Zhavoronkova N.G. it is necessary to forget about the presentation of the “climate” agenda as a purely “environmental” phenomenon. Any major

international and national environmental problems are problems of national security and global competition. Their analysis and reaction should be in an appropriate strategic way.¹¹³

Let's look at this problem from the other side. Thus, the issues of the effectiveness of the state as a whole largely depend on the efficiency of the economy and law. In turn, the effectiveness of law consists of many parts - ideology (philosophy, values, traditions, culture), lawmaking and law enforcement. This includes both mechanisms and legal relations. According to a large number of reputable legal theorists, the root of many problems of the effectiveness of lawmaking should be sought in the actualization of the cultural and historical specifics of the domestic state and law. Professor Sinyukov V.N. believes that “now the law of Russia is alienated from its spirituality, domestic traditions, the most culturally disoriented area of public relations. It is precisely because of this situation that the domestic state and law have become the most vulnerable areas, attractive objects for alien, foreign missionary work”.¹¹⁴

The climate legislation of the EU, in our opinion, has become the “most vulnerable area” for alien missionary work. The prerequisites for this were formed long before the adoption of the EU Climate Doctrine. The sphere of “nature protection - the environment - rational nature management” is supranational and international, since the object of legal regulation - nature is inherently a global, planetary, biospheric object. But it didn't show up yesterday. In the 80-90s there was a deep “internationalization” of law in the field of nature protection. Since the mid-90s, a trend has finally taken shape for the mass borrowing of not only terms, but also the main approaches, standards, norms, and methods in this area. There is nothing wrong with this if foreign legislation is based on an already formed, existing and nationally oriented package of environmental and legal norms. Legal globalization, however strange it may seem, does not cancel, but rather enhances the role and significance of national legal institutions and doctrines. But only if institutions and doctrines have real power, position and role as the foundations of state policy. Otherwise, legal globalization simply absorbs legal systems that are not independent and incapable of self-identification.

Unfortunately, the climate legislation of the EU has fully revealed the shortcomings of the system of environmental legislation of the Russian Federation. In this particular case, there

113 Ecological and legal support of the climatic security of the Russian Federation: monograph. - Moscow: Prospekt, 2022. - 160 p.

114 Russian legal system: introduction to the general theory: monograph / V. Sinyukov - 2nd ed. add. Moscow: Norma-INFRA. 2010.

is not even a hint to present our Russian environmental and legal doctrine of climate security based on spiritual, moral and socio-cultural characteristics. Even the obvious, huge planned economic losses for our country in the event of an “energy transition” could not wake up the legal system to protect national interests.

Long-term and short-term global climate interests can and should contribute to the ecological integration of state development concepts, including legal systems. But only common values establish the legal and socio-cultural fusion, which is a solid foundation for the eco-economy, “green energy”, and eco-development.

A very clear and revealing example is the birth of the ideology of the main trend in the development of the Western countries - under the general name of the “climate agenda”. At the heart of such a large-scale and uncompromising “energy transition” announced by the EU countries and supported by almost the entire “modern” world as the only possible way to preserve civilization in its current form, the Green Deal program was announced, which implies the rejection of fossil fuels and the transition to renewable energy sources. The goals of the “energy transition” are declared to be the noblest - saving nature and thus humanity from a global catastrophe due to anthropogenic climate change. The topic of a global environmental catastrophe as a result of excessive “human” energy consumption cannot but excite all the inhabitants of the planet without exception. And this is presented as an emergency, behind it is an attempt to spread a new philosophy of development, a new ideology that is mandatory and equally acceptable to everyone.

Why has the climate become the main trigger for economic projects of unprecedented scale and a fundamental shift in the focus of environmental and legal regulation? After all, before 1972 (in 1972 the United Nations Environment Program - UNEP was formed¹¹⁵) and after that, there were numerous global threats and measures were taken to protect and prevent them. Why, after the Paris climate summit (2007), did some countries bluntly demand the liquidation of UNEP, allegedly for its inefficiency, and call for the establishment of a new UN Environment Organization that could focus primarily on the climate agenda?

The fact that the existing regional programs (for example, on desertification, or on water resources, on biodiversity) could not demonstrate a global threat that does not have borders and territories, is not associated with the presence or absence of certain natural-climatic,

¹¹⁵ UNEP is an internationally recognized body for international cooperation in the field of ecology.

economic, political and other features. The climate has no boundaries and is not connected with military and economic power.

A world focused on “free enterprise” as the only ideology that gives a universal formula for “well-being”, “security”, “sustainable development” did not suit the developed countries, primarily the EU countries. That is why the variant of “climatic ideology” was chosen.

Why is the “climate ideology” so important for the countries of the conventional “West”? Firstly, an essential and indisputable argument of universal sounding has been found - the salvation of the planet; secondly, this ideology was first formulated and broadcast by the “West” now as the main “savior” of mankind; thirdly, announcing important goals and ways to solve the problem, the “west” insists on the “equal” participation of all states in solving this global problem, leaving aside the fact that it is the West that is guilty of climate pollution; fourthly, the climate agenda is a brilliant pretext and an opportunity to use the technological advantages of the “West” to further secure the position of the “developed”, “developing” and “third world”- countries in the distribution of wealth and opportunities; fifthly, to force the whole world with the help of the ideology of “energy transition” to accept those rules, norms, standards that have already been prepared and will be gradually introduced as no alternative for all countries. Those states that have natural wealth at one point become even poorer and more dependent on “developed” countries not because of the colonial policy of exploitation, but in the name of saving the planet; fifthly, the ideology of climate danger makes it possible to construct any social, economic, technological steps within the framework of global salvation.¹¹⁶

Now we are witnessing the transformation of environmental law into partly global “climatic” law, and then into “global”, preventive law aimed at saving humanity as a whole. In this case, it is very important for our country, recognizing the absolute danger of climate change and the need to take urgent measures, not to accept the current regulation as the only possible one. Moreover, at present there is a unique chance to form our own global climate and environmental agenda, possibly based on the “noosphere” theory.

We agree that criticism of the current state of the Russian legal system in the light of the EU climate doctrine is productive and useful, but it is vital to understand the possibilities of

116 Zhavoronkova N.G., Shpakovsky Yu.G. Climate aspects of national environmental policy // Lawyer, No. 1, 2022.

changes in the current state of national law. In our opinion, a number of fundamental positions should be identified.

1. Recognize that ideology and economics are at the core of the EU climate agenda.
2. The climate threat is a global reality, but the methods and means of solving it are tools of competition and domination.
3. Mass consciousness, mass “greening” of the climate agenda gives the main and indisputable advantage to politicians and states to take the most economic drastic measures.
4. EU climate laws are beneficial and supported by European business, as they provide a “reset” of the economy.

Taking into account these and other considerations, we emphasize once again that the ideology of “climate law” - saving the world from the threat of warming - is the main tool for the expansion of European law. But Russia, unfortunately, has practically nothing to object to or oppose to the idea of “energy transition”, “decarbonization”, “green” growth. It is very strange and at the same time incredible to admit that we simply do not have our own legal (environmental) ideology capable of convincing countries, at least within the framework of associations such as the SCO - EEC - BRICS.

Moreover, the ideas of “sustainable development” adopted and approved at the level of laws, moreover, included in the practice of public administration in the form of specific funding and government contracts, were not and are not a reflection of the Russian concept of environmental development. In fact, Russia does not have a concept of climate change adaptation as a factor in global environmental security.¹¹⁷

In our opinion, an alternative to “sustainable development” borrowed and uncritically accepted as an “ecological” idea of development could be the use of the world-wide recognized concept of the “noosphere” of Academician of the USSR Academy of Sciences V. Vernadsky. It is not clear why, but the idea of the “noosphere” popular in the 90s has come to naught in our time. It is the concept of global and planetary nature, with Russian roots, that could become unifying for environmental and climate agendas around the world.

Russian environmental legislation is unique in that only we have adopted dozens of strategic planning documents directly or indirectly devoted to environmental development and

117 Zhavoronkova N.G., Shpakovsky Yu.G. Sanctions policy of unfriendly states as a threat to global environmental security // *Laws of Russia: experience, analysis, practice*. No. 8, 2022. P.77-85.

partly to climate problems. But these documents are not known outside of Russia. Meanwhile, the Environmental Doctrine of the Russian Federation,¹¹⁸ the Ecological Security Strategy of the Russian Federation,¹¹⁹ the Climate Doctrine of the Russian Federation,¹²⁰ the Fundamentals of State Policy in the Field of Environmental Development of the Russian Federation for the period up to 2030¹²¹ and many others have a chance to become the basis for establishing an alternative to the EU Climate Doctrine on their basis.

Moreover, in the same Climate Doctrine of Russia it is noted that “Global climate change creates for the Russian Federation (taking into account the size of its territory, geographical location, exceptional variety of climatic conditions, economic structure, demographic problems and geopolitical interests) a situation that implies the need for early formation of a comprehensive and balanced approach of the state to climate problems and related issues based on a comprehensive scientific analysis of environmental, economic and social factors.”¹²²

But there are no convincing, irrefutable, unambiguous facts about the “greenhouse effect” as the cause of the global catastrophe that has just begun of an anthropogenic nature. But there is an obvious problem of climate and the problem of climate security, independent of anthropogenic causes. The National Security Strategy of the Russian Federation states that “Climate change has an increasingly negative impact on the conditions for doing business and the state of the human environment. The frequency of hazardous natural phenomena and processes that become sources of natural and man-made emergencies is increasing.”¹²³

Environmental law and environmental policy are based, among other things, on the provisions of the Strategy - 2021. In this part, the Strategy supplements the “climate agenda with “economic” challenges, noting that “the development of a green and low-carbon economy is becoming the main issue on the international agenda. Increasing competition for access to natural resources is one of the factors intensifying international tension and the emergence of conflicts between states.”

118 Decree of the Government of the Russian Federation dated August 31, 2002 No. 1225-r.

119 Decree of the President of the Russian Federation of April 19, 2017 No. 176.

120 Decree of the President of the Russian Federation of December 17, 2009 N 861-rp

121 “Fundamentals of the state policy in the field of environmental development of the Russian Federation for the period up to 2030” (approved by the President of the Russian Federation on April 30, 2012).

122 Ibid, from 4

123 Decree of the President of the Russian Federation of July 2, 2021 No. 400 “On the National Security Strategy of the Russian Federation”.

Considering the relationship between the “carbon footprint” and climate change, it is impossible not to mention that the transition to “zero emissions” may not radically change the trend for temperature change. We unconditionally support any measures aimed at environmental, climate and other security. But, in our opinion, It is wrong not to see obvious attempts to solve not environmental, but climate problems through tough and ambiguously effective measures taken by the European Union, forcing a “green course”, understood roughly technologically and simply, setting a fee for the “carbon footprint”.

The “natural” goal is clear - to limit the “greenhouse effect” as much as possible and reduce (keep) temperature parameters within acceptable limits for life. But the solution to the problem of air pollution, and not just the removal of greenhouse gases, has not only temperature or “carbon” features and characteristics, but multiple aspects and solutions. For example, obtaining energy not from renewable sources, but from small nuclear power units. There are many such solutions.

First of all, environmental, legal and economic analysis should be subject to:

1. Ideology, philosophy of the “green transition”, real (deep) reasons, sources and driving forces of “decarbonization”, “green course” (which in essence is a revolution in the economy, politics, energy, lifestyle, supported by the majority of the population of European countries).

2. Sources and related characteristics of global crises (climatic, environmental, food, etc.) occurring in the world and affecting states and individuals to varying degrees. They are interrelated and can be considered in a holistic paradigm of “sustainable” or “green” development.

3. The practice of international and national environmental legislation, legal systems of nature management to establish a new paradigm for the development of law in the face of constant crises, disasters, threats, risks. Modern environmental regulations can no longer guarantee an effective environmental policy both globally and nationally. The need for an adequate legal and regulatory understanding of the “era of impending disasters” is becoming a top priority.

4. Climate law - doctrines, laws, rules (adopted and planned) by the European Union and supported by many developed countries. They must be evaluated not only in terms of their impact on the global temperature regime, but also in terms of criteria for national environmental, economic and climate security.

5. Using the example of probable (projected) legal and economic consequences for national states that are not members of the European Union, it is necessary, under the auspices of Russia, to advance and offer the world community a number of alternative scenarios for solving global environmental problems, where the climate will be only a significant, but part of the solution.

For Russia, economic and technological solutions within the framework of the EU Climate Doctrine are both a challenge and opening opportunities for revising the concept of environmental and climate security through, among other things, a radical reassessment of the country's environmental and economic capabilities on a global scale.

Over the past decades, our country has had a negative image, being subjected to discrimination and organized sanctions, which significantly hinders development. The promotion of an alternative to the European Union “Climate Doctrine of Security” can dramatically change the image of the country as a whole and give the necessary dynamics to interstate relations.

If we carefully analyze the latest European documents, for example, the EU Climate Doctrine, the EU Climate Law and many other acts, then the fundamental question of the place of “new”, “green” legislation in the architecture of international climate relations and obligations for the whole world will become clear.

Undoubtedly, the “green economy” for the European Union represents a way out of a certain impasse of development. The climate model, according to the authors of the EU Climate Doctrine, embodies the next cycle of the EU development at the expense of “underdeveloped” countries or countries of the “second echelon”. This is one of the acceptable interpretations of the driving force behind the green economy.

The “Green Way”, according to Western scientists, relying on a high degree of support among the population for environmental problems, involves the emergence of new financial and economic mechanisms, forms new rules of the global game that are convenient for the European Union, and stimulates competition among legal and technological institutions. This is partly true, but three simple facts should be taken into account.

1. Fundamentally different demographic, economic, social, environmental, natural and climatic conditions of countries, regions, continents, which implies a different degree, conditions, terms of the “green path”.

2. Such a large-scale, essentially global ecological and economic experiment, provided that it is implemented very quickly, is based only on assumptions and forecasts of climate (anthropogenic) changes. In the event of a forecast error, the damage from the “energy transition” can be much more serious than from the traditional energy balance.

3. In the absence of a full consensus of the participating countries on the Climate Agenda proposed by the European Union, instead of solving the planetary climate problem, a much more pressing problem of inequality, energy and technological “genocide” will arise.

4. In the EU report entitled “Climate Neutrality by 2050” the main idea of the global economic and technological aspect is quite clearly traced, aimed primarily at creating a new trading system, realizing technological advantages, an instrument of carbon sanctions, increasing jobs related to the environment by 1-1.5% (to 4 million existing ones), the dissemination of European environmental regulation and standards throughout the world.

It should be noted once again that the European Green Deal is a transformation of the European economy, energy, technologies, consumption standards in the transition to renewable energy sources. The so-called “Green Deal” presupposes, first of all, a fundamental reform of the European energy system, a crucial change in relations (primarily economic) of the EU with geopolitical consequences. One can understand the importance of the Green Deal idea, given that European spending on oil and gas imports, which in 2018 was estimated at 296 billion euros, should increase many times over by 2030.¹²⁴

Therefore, climate problems have become the impetus for a fundamental turn towards reconsidering energy sources obtained in the form of fossil fuels from countries outside the eurozone.

We should once again focus on the political subtext of the EU climate agenda and ask ourselves: why did the EU make the climate agenda the main task of this decade, what is its political and economic basis (besides the fight against emissions)?

1. The main thing is the presence of the internal market of the EU (450 million consumers) and the market of the USA, Japan, South Korea, Canada, consolidated with it, exceeding one billion consumers.

¹²⁴ Europe accounts for about 20 percent of world crude oil imports.

2. This is an attempt to consolidate the “climate” rules and requirements within the framework of the hastily created “Climate Club”, by involving all the most developed countries in the world - the USA, Japan. South Korea, Canada, China will join the Climate Doctrine.

3. This is the use of the ability of the European Union, in alliance with other countries, to dictate its terms to the “rest” of the world. The Climate club will allow the huge transatlantic economy to become the center of global change.

In fact, the European Union divided the world in this matter not only into “old” and “new” Europe, into rich and poor, into highly and low-competitive economies, but also into technologically (colonially) dependent and independent countries, which fundamentally able to cope with the additional burden on the business due to the proposed measures in different ways. The introduction of unilateral quotas, bans, duties under the guise of “climate” will open the way for a completely new configuration of intercountry trade relations, where the interests of environmental security will come last.¹²⁵

There are a number of strategic risks hushed up by the European authors of the Green Deal.

First, if carbon phase-out is limited to Europe, it will fail to mitigate global warming because Europe accounts for less than 10 percent of global greenhouse gas emissions.¹²⁶

Second, if the EU fails to convince developed countries to support a full Green Deal emission ban, Europe's greenhouse gas emissions will simply pass to its trading partners and climate change will not be affected. For this reason alone, the EU should actively promote the idea of ambitious multilateral agreements to combat global warming and subordinate some of its goals to this priority.

Third, the rising cost of GHG permits in the European Emissions Trading System could backfire on the Eurozone economy. For example, according to the European Commission, the increase in the cost of permits from about 30 euros/tCO₂-eq. (2020) up to 38 EUR/tCO₂-eq. in 2021 and up to 70 EUR/tCO₂-eq. by 2030, bring the economy and the eurozone itself to a halt.

125 Zhavoronkova N. G., Shpakovsky Yu. G. Doctrine of environmental law: theoretical and methodological problems // Bulletin of the Kutafin University (MSAL). No. 5(93), 2022, pp. 26-45.

126 As defined by SNBC, “carbon footprint (or emissions from consumption) - direct emissions from the population and indirect emissions associated with the production and transportation of goods and services, whether they are produced domestically or abroad.” It is noted that the import of oil products, natural gas and coal contributes to the carbon footprint; housing, transport and food are the main contributors to the carbon footprint.

Fourthly, if it turns out that renewable energy sources and all “decarbonization” measures are much more expensive and less effective than improving cleaning technologies or, for example, the development of nuclear energy, then the result of the “green deal” may be, according to individual experts, even the collapse of the European Union.

3. CONCLUSION

In conclusion, a rhetorical question should be asked: what can Russia take positively from the EU climate agenda?

First of all, this is the solution of a long-overdue climate (environmental) problem related to the achievement of a number of sustainable development goals: in the field of responsible production and consumption, improving health, saving land ecosystems, and advancing environmental conditions in cities.

At the same time, this will reduce greenhouse gas emissions: since 1990, Russia has significantly reduced their emissions, but with the only exception - greenhouse gas emissions from municipal solid waste landfills, which (both the number of landfills and the volume of these emissions) have continued to grow all these years.¹²⁷

Two more should be added to the main key areas for the implementation of sustainable development policy in the context of solving climate problems in Russia.

First, the modernization of infrastructure, a comprehensive plan for which is one of the most important goals of national development and part of the “package” of national projects. If the plan is implemented as envisaged by 2024, it will allow not only to significantly accelerate the growth of the economy, but also to move forward with its adaptation to climate change.

Secondly, the development and modernization of housing construction, the success of which is also a significant component of improving the situation with energy efficiency in the energy sector in general, and for solving environmental and climate problems in particular.¹²⁸

Sustainable Development Goals until 2030 it is necessary to develop a set of measures for adaptation to climate change. This is one of the directions of modern international

127 It is no coincidence that the Accounts Chamber presented a very critical report on the effectiveness of solving this problem by authorized federal departments and regional authorities, including as part of the implementation of a specialized federal project as one of the main components of the national project “Ecology”.

128 There is a huge potential for the application of “green standards” in Russia.

cooperation, including the definition of science-based legislative proposals for the prevention of climate change and adaptation to it.

Adaptation to climate change is recognized as a national task of the Russian government. Russia's strategic planning documents provide for a transition to a low-carbon economy. This leads to the transformation of environmental law and the need to identify new environmental legal regulators based on a conceptual model of legal regulation of social relations.

4. REFERENCES

ZHAVORONKOVA, N. G.; SHPAKOVSKY, Yu. G. *Ecological and legal support of climatic security of the Russian Federation: monograph*. Moscow: Prospect, 2022.

PORFIRIEV, B. N. *Sustainable development, climate and economic growth: strategic challenges and solutions for Russia*. St. Petersburg: SPbGUP, 2020.

Sobre os autores | About the Authors:

Maria Alexandrovna Egorova | E-mail: maegorova@msal.ru

Professor of the Competition Law Department at Kutafin Moscow State Law University (MSAL). Doctor of Law. Co-President of the International Union of Lawyers and Economists (France). Chair of the Commission on International Affairs and Scientific Cooperation and Director of the International Scientific and Educational Center for Comparative Law of the Moscow Branch of the Association of Lawyers of Russia. Expert of the Russian Academy of Sciences. Her academic and professional work focuses on competition law, comparative law, and the legal dimensions of international economic and political transformations.

Y. G. Shpakovskii |

Doctor of Law. Professor of the Ecological and Natural Resources Law Department at Kutafin Moscow State Law University (MSAL). His teaching and research focus on environmental law, legal regulation of natural resources, and the legal mechanisms of environmental and climate security in the Russian Federation.

Daria Vladimirovna Ponomareva |

PhD in Law. Deputy Head of the Legal Practice Department at Kutafin Moscow State Law University (MSAL). She works at the interface between legal education and professional practice, contributing to the training of legal professionals and the development of applied approaches to contemporary legal problems.

Natalia Chelysheva |

Candidate of Legal Sciences. Associate Professor and Head of the Department of Civil Law and Procedure at the Ural Institute of Management (Branch) of the RANEPa under the President of the Russian Federation. Her activities concentrate on civil law, civil procedure and legal policy, with particular emphasis on training professionals for public administration and the justice system.

Yuri Alexandrovich Kanzer |

PhD in Law. Associate Professor of the Department of Financial and Business Law at the VIU branch of the RANEPa under the President of the Russian Federation. Director of the law firm LLC “Regional Law Company”. His work combines academic and professional expertise in financial and business law, economic regulation and legal support for corporate and public-sector clients.