LEGAL PROBLEMS OF IMPLEMENTING PUBLIC-PRIVATE PARTNERSHIP PROJECTS IN THE FIELD OF RENEWABLE ENERGY SOURCES (THE CASE OF THE REPUBLIC OF UZBEKISTAN)

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Abstract: This thesis examines the legal problems of implementing public-private partnership (PPP) projects in the field of renewable energy sources in the Republic of Uzbekistan. It analyses the legal framework (the Law "On Public-Private Partnership" and the Law "On the Use of Renewable Energy Sources"), the contractual structure of renewable energy PPP projects based on the independent power producer model and the long-term power purchase agreement with a single buyer, and the principal legal risks affecting the bankability of such projects — the creditworthiness of the offtaker, currency and change-in-law risks, the enforceability of state guarantees, and dispute resolution. Drawing on comparative experience, the study proposes directions for improving national legislation.

Keywords: public-private partnership; renewable energy sources; power purchase agreement; bankability; single buyer; state guarantees; concession; dispute resolution.

Аннотация: В тезисе рассматриваются правовые проблемы реализации проектов государственно-частного партнёрства (ГЧП) в сфере возобновляемых источников энергии в Республике Узбекистан. Анализируются нормативная база (Закон «О государственно-частном партнёрстве» и Закон «Об использовании возобновляемых источников энергии»), договорная структура проектов ВИЭ на основе модели независимого производителя энергии и долгосрочного соглашения о покупке электроэнергии с единым покупателем, а также ключевые правовые риски, влияющие на банкируемость проектов: кредитоспособность покупателя, валютный риск и риск изменения законодательства, обеспеченность государственных гарантий и разрешение споров. На основе сравнительного опыта предлагаются направления совершенствования национального законодательства.

Ключевые слова: государственно-частное партнёрство; возобновляемые источники энергии; соглашение о покупке электроэнергии; банкируемость; единый покупатель; государственные гарантии; концессия; разрешение споров.

Annotatsiya: Mazkur tezisda O'zbekiston Respublikasida qayta tiklanuvchi energiya manbalari sohasida davlat-xususiy sheriklik (DXSh) loyihalarini amalga oshirishning huquqiy muammolari ko'rib chiqiladi. Me'yoriy baza («Davlat-xususiy sheriklik to'g'risida»gi va «Qayta tiklanuvchi energiya manbalaridan foydalanish to'g'risida»gi qonunlar), mustaqil energiya ishlab chiqaruvchi modeli va yagona xaridor bilan uzoq muddatli elektr energiyasini sotib olish shartnomasi asosidagi QTEM loyihalarining shartnomaviy tuzilishi, shuningdek loyihalarning bankka yaroqliligiga ta'sir etuvchi asosiy huquqiy xavflar — xaridorning to'lov qobiliyati, valyuta va qonunchilik oʻzgarishi xavfi, davlat kafolatlarining taʼminlanganligi va nizolarni hal etish tahlil qilinadi. Qiyosiy tajriba asosida milliy qonunchilikni takomillashtirish yoʻnalishlari taklif etiladi.

Kalit soʻzlar: davlat-xususiy sheriklik; qayta tiklanuvchi energiya manbalari; elektr energiyasini sotib olish shartnomasi; bankka yaroqlilik; yagona xaridor; davlat kafolatlari; konsessiya; nizolarni hal etish.

Introduction

The achievement of the Republic of Uzbekistan's ambitious renewable energy targets — several gigawatts of solar and wind capacity planned by 2030 — depends primarily on attracting large-scale private and foreign investment. The principal legal instrument for this purpose is the public-private partnership (PPP), under which a private partner finances, builds, owns and operates a generation facility over its life cycle, while the state, through a single buyer, guarantees the purchase of the electricity produced. Although Uzbekistan has created a modern legal framework and successfully launched flagship projects, the implementation of renewable energy PPP projects raises a range of legal problems that determine their bankability and ultimate success. This thesis identifies these problems and outlines directions for improving the legislation.

1. The Concept and Legal Framework of PPP in the Renewable Energy Sector

Public-private partnership is a long-term, contract-based form of cooperation between a public and a private partner for the financing, creation, reconstruction and operation of infrastructure, with the allocation of risks between the parties. In Uzbekistan, the relevant relations are governed by the Law "On Public-Private Partnership" No. ZRU-537 of 10 May 2019 (in force from 12 June 2019, as amended), which also covers concessions and excludes production-sharing agreements and public procurement, and by the Law "On the Use of Renewable Energy Sources" No. ZRU-539 of 21 May 2019. These two acts, adopted together in May 2019, form the legal basis for accelerating renewable energy projects. Institutional support is provided by the PPP Development Agency, which approves project concepts and maintains the register of PPP projects, while sector-specific relations are now also governed by the new Law "On the Electric Power Industry" No. ZRU-939 of 7 August 2024.

2. The Legal Structure of Renewable Energy PPP Projects

The dominant model for renewable energy PPP projects in Uzbekistan is that of the independent power producer (IPP): the private investor assumes responsibility for the entire project life cycle — financing, feasibility study, choice of technology, construction and operation — while a single buyer guarantees the purchase of the electricity generated. Following the unbundling of the sector, this offtaker function is performed, since 1 July 2024, by JSC "Uzenergosotish" (whose sole shareholder is the Ministry of Economy and Finance); the power purchase agreements concluded with private plants were transferred to it from 1 January 2025, while JSC "National Electric Grids of Uzbekistan" now acts as the transmission system operator, and a separate Agency for the Development and Regulation of the Energy Market performs the regulatory functions (including tariffs). The central contract is the long-term power purchase agreement (PPA), which fixes the tariff and the offtake obligation and thereby creates the predictable revenue stream required for project financing. This structure has been used in flagship projects such as the IFC "Scaling Solar" programme — under which the first 100 MW solar plant in the Navoi region was awarded to Masdar in 2019 — and in subsequent solar and wind projects involving ACWA Power, supported by the IFC and the Asian Development Bank.

3. Key Legal Problems

Despite the developed framework, the implementation of renewable energy PPP projects reveals a number of legal problems, most of which concern the bankability of the project (its acceptability to lenders):

– the creditworthiness of the offtaker (the single buyer, JSC "Uzenergosotish"): lenders require assurance that the state buyer will meet its long-term payment obligations, which has had to be reinforced by partial credit guarantees from international financial institutions;

– the enforceability of state guarantees and government support measures, including their scope and the conditions for their activation;

– currency and convertibility risk, given that financing is raised in foreign currency while the tariff is partly linked to the national currency;

– change-in-law and tariff-stability risk — the risk of unilateral changes to the regulatory or fiscal regime over the long contract term;

– the allocation of risks relating to land provision, grid connection and balancing, as well as the consequences of delay and force majeure;

– termination and compensation provisions, which determine the protection of the investor and lenders upon early termination;

– the choice of governing law and dispute-resolution mechanism (in particular international arbitration) and the recognition and enforcement of arbitral awards;

– fragmentation and potential overlap between the PPP Law, the Renewable Energy Law, the investment legislation, the Electric Power Industry Law, and the Civil Code provisions on concession.

4. Comparative Experience and Prospects for Development

Comparative experience offers useful models. Kazakhstan, for instance, has applied since 2018 a system of competitive auctions for renewable energy projects, combined with a long-term power purchase agreement concluded between the investor and the Settlement-and-Financial Centre for a term of up to fifteen years, where the auction-cleared tariff is indexed for inflation and exchange-rate changes — which creates a predictable financial model for project finance. In EU practice, competitive auctions, contracts for difference (CfD) and state-aid rules ensure transparency and a balance between investor protection and the public interest. Drawing on this experience, prospects for improving Uzbek legislation include: strengthening the legal certainty and enforceability of state guarantees and the bankability of the PPA; a clear statutory allocation of change-in-law and currency risks; harmonisation of the PPP Law with the renewable energy and electricity legislation; the development of competitive auction procedures; and the reinforcement of neutral dispute-resolution mechanisms to enhance investor confidence.

Conclusion

Public-private partnership has become the principal legal mechanism for implementing renewable energy projects in the Republic of Uzbekistan, and the country has built a modern legal framework and a record of successful flagship projects. Nevertheless, the legal problems of implementing such projects — above all the creditworthiness of the single buyer, the enforceability of state guarantees, currency and change-in-law risks, and dispute resolution — continue to determine their bankability. Strengthening the legal certainty of these elements, harmonising the relevant legislation and developing competitive and balanced contractual models will enhance investor confidence and support the achievement of the country's renewable energy and energy-transition goals.

Adabiyotlar, References, Литературы:

1. Civil Code of the Republic of Uzbekistan (Part Two), 1996 (as amended).
2. Law of the Republic of Uzbekistan “On Public-Private Partnership” No. ZRU-537, 10 May 2019 (in force from 12 June 2019, as amended).
3. Law of the Republic of Uzbekistan “On the Use of Renewable Energy Sources” No. ZRU-539, 21 May 2019 (as amended).
4. Law of the Republic of Uzbekistan “On the Electric Power Industry” No. ZRU-939, 7 August 2024 (in force from 9 November 2024).
5. Law of the Republic of Uzbekistan “On Investments and Investment Activity” No. ZRU-598, 25 December 2019.
6. International Finance Corporation (IFC). Scaling Solar Program. Project documentation.
7. Asian Development Bank. Public-Private Partnership projects in the energy sector of Uzbekistan.
8. UNCITRAL Legislative Guide on Public-Private Partnerships, 2019.
9. OECD. Recommendation on Principles for Public Governance of Public-Private Partnerships, 2012.