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*Nina Knyazeva, LL. M*  
*Businessconsult Law Firm*  
*(Republic of Belarus, Minsk)*

## **ENERGY SAVINGS PERFORMANCE CONTRACT AND CIVIL LAW OF THE REPUBLIC OF BELARUS**

### **МЕСТО ДОГОВОРА ЭНЕРГОСБЕРЕЖЕНИЯ В ГРАЖДАНСКОМ ПРАВЕ РЕСПУБЛИКИ БЕЛАРУСЬ**

Учитывая поиск решений своей энергетической проблемы, особого внимания Президента Республики Беларусь к вопросам, относящимся к энергосбережению, в настоящее время представляется целесообразным проанализировать возможность использования договора энергосбережения, а также предпринять меры, направленные на создание необходимых условий для внедрения энергосберегающих договоров в систему договоров гражданского права Республики Беларусь. Рассмотрены основные аспекты, которые должны найти отражение в белорусском законодательстве для успешного использования договора энергосбережения при реализации государственной политики, направленной на модернизацию энергетических систем Республики Беларусь и эффективное использование энергетических ресурсов.

Energy saving performance contract pursuant to which one party, seeking to improve its energy efficiency, contracts with an energy service company for energy efficiency services and financing, could be one of the possible solutions for the Republic of Belarus for procuring its energy safety.

Notwithstanding the fact that current Belarusian laws do not determine energy savings performance contract as a separate type of the civil law contracts, its execution and performance pursuant to Article 7 of the Civil Code of the Republic of Belarus is not prohibited. It is also possible to state that the legal nature of this type of agreements is similar to the agreement on rendering services, thus, the respective provisions of the Civil Code could be applicable to the energy savings performance contracts as well.

At the same time practical experience around the world, including the one of the neighboring countries like Russian Federation and Ukraine, proves that in order to successfully execute and perform energy savings performance contract certain conditions should exist, namely it is necessary to have the respective legal environment.

The analysis shows that the laws of the country have to expressly determine the procedure of executing the energy savings performance agreement, establish the requirements of its parties, define the objects with respect to which this kind of contracts could be executed, classify the types of allowed energy savings performance contracts as well as identify the financial resources which could be used for implementing energy savings projects in general.

The aforementioned aspects are only the few that have to find its place in the legislation before the Republic of Belarus could enjoy the benefits of the energy savings performance contracts offered around the globe. It seems that the precise regulation would not only depict the procedure of executing and performing the agreements in question, but would also offer greater securities both to the state (which at the present time is the most interested party in finding energy-saving solutions), as well as to the servicing companies, giving rise to the material incentives for the involved parties to successfully implement energy savings projects in the Republic of Belarus.

Bearing in mind the country's search for the solution of its current energy issues as well as special attention of the President of the Republic of Belarus to the matters related to energy savings, it seems rational and efficient to consider the possibility of implementing energy savings performance contracts, and to take measures necessary for introducing this type of agreement into the existing system of the civil law contracts of the Republic of Belarus. It is possible that precisely this agreement may become the most efficient solution for implementing state policy aiming to modernize energy systems of the Republic of Belarus and cost-effectively use its energy resources, as well as the most attractable resolution for Belarusian entities, which lack their own funds and resources (for example, experience in energy efficiency and professional skills) in order to improve the currently used outdated equipment, or which wish to impose responsibility for managing, operating and improving energy efficiency on third parties in order to concentrate their own resources necessarily on their main type of business.