


<https://doi.org/10.22363/2313-2337-2022-26-2-314-328>

Research Article

Foreign experience in the implementation of “green” public procurement legal instruments

Maria A. Egorova  

Kutafin Moscow State Law University (MSAL),
Russian State Academy of Intellectual Property, *Moscow, Russian Federation*
International Alliance of lawyers and economists, *Lion, France*
 maegorova@msal.ru

Abstract. The purpose of the study is to generalize the practice of legislative regulation of green public procurement in the countries of the European Union with the prospect of its application in the legal conditions of Russia. The article formulates the legal content of “green” (sustainable) public procurement. It is substantiated that green public procurement will contribute to solving environmental problems, stimulating the subjects of innovative and environmental entrepreneurship to actively support the climate agenda. The study reveals the obstacles that hinder broader engagement of the Russian contract law to raise efficiency of green public procurement in Russia. Conclusions concern normative regulation considering environmental criteria for identifying green public procurement and developing regulations for this type of procurement based on the experience of the world leaders. Normative and legal regulation of “green” procurement is necessary not only for companies, but also for the state, as it reflects national strategic priorities in the field of environmental protection, which is in line with the UN global goals of sustainable development.

Key words: public green procurement, sustainable public procurement, contract system, legal regulation, European Union, OECD, environmental law

Conflicts of interest. The author declares no conflicts of interest.

Article received 3rd February 2022

Article accepted 15th April 2022

For citation:

Egorova, M.A. (2022) Foreign experience in the implementation of “green” public procurement legal instruments. *RUDN Journal of Law*. 26 (2), 314—328. <https://doi.org/10.22363/2313-2337-2022-26-2-314-328>


Зарубежный опыт реализации правовых инструментов государственных «зеленых» закупок

М.А. Егорова  

Московский государственный юридический университет имени О.Е. Кутафина (МГЮА);
Российская государственная академия интеллектуальной собственности (РГАИС),

г. Москва, Российская Федерация

Международный союз юристов и экономистов, г. Лион, Франция

 maegorova@msal.ru

Аннотация. Целью исследования является обобщение практики законодательного регулирования «зеленых» государственных закупок в странах Европейского Союза для возможности его применения в правовых условиях России. Сформулировано правовое содержание «зеленых» (устойчивых) государственных закупок. Обосновано, что «зеленые» государственные закупки будут способствовать решению экологических проблем, стимулированию субъектов инновационного и экологического предпринимательства активно поддерживать климатическую повестку. В ходе исследования выявлены ограничения использования российского контрактного законодательства к эффективному проведению «зеленых» государственных закупок в России. В заключении сформулированы выводы о необходимости нормативного регулирования учета экологических критериев для идентификации «зеленых» государственных закупок, разработки регламентов проведения такого вида закупок по опыту мировых лидеров. Нормативно-правовое регулирование «зеленых» закупок необходимо не только компаниям, но и государству, поскольку отражает национальные стратегические приоритеты в области охраны окружающей среды, что соответствует глобальным целям устойчивого развития ООН.

Ключевые слова: государственные «зеленые» закупки, устойчивые государственные закупки, контрактная система, правовое регулирование, Европейский Союз, ОЭСР, экологическое законодательство

Конфликт интересов. Автор заявляет об отсутствии конфликта интересов.

Дата поступления в редакцию: 03 февраля 2022 г.

Дата принятия к печати: 15 апреля 2022 г.

Для цитирования:

Егорова М.А. Зарубежный опыт реализации правовых инструментов государственных «зеленых» закупок // *RUDN Journal of Law*. 2022. Т. 26. № 2. С. 314—328. <https://doi.org/10.22363/2313-2337-2022-26-2-314-328>

Since 2010 the EU and OECD countries have been improving legal, economic, and technical tools to stimulate “green” production, green construction and development of alternative green energy. The concept of green economy is based on three axioms: it is impossible to infinitely expand the sphere of influence in a limited

space; it is impossible to meet infinitely growing needs in conditions of limited resources; the Earth's ecosystems are interconnected.

Under EU law, the legal regulation of green public procurement is based on two directives — Directive 2004/18/CE¹ and Directive 2004/17/CE².

Directive 2004/17/CE regulates the procurement procedures for entities operating in the water, energy, transport and postal services sectors.

Directive 2004/18/CE coordinates procedures for public works contracts, supply contracts and public service contracts (so called “classic directive”). The directive explains how public contractors can contribute to environmental protection and promote sustainable development, while ensuring the best value for money. The Directive is based on case law contracting criteria, which clarifies the ability of public contracting authorities to meet the needs of stakeholders, including environmental or social concerns, provided that such criteria are related to the subject matter of the contract.

European experience in regulating the implementation of green public procurement. The principles of public contracting are the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services, as well as the relative principles of equal treatment, non-discrimination, mutual recognition, proportionality, and transparency (Article 2 of the Directive).

The Directive states that no party shall impede introduction or enforcement of measures necessary to protect public policy, public morals, public safety, human health and welfare, animal and plant life; it is mandatory to consider sustainable development objectives when awarding public contracts. Before starting the contracting procedure, public contractors are entitled to request the necessary confirmations of compliance with the criteria of “green” public procurement, provided that competition is not disturbed.

Green public procurement is actively used abroad to stimulate environmental development of economy. As of early 2022, they account for an average of 12 percent of gross domestic product (GDP) in OECD countries, and up to 30 percent of GDP in many developing countries³. Environmental degradation, climate change, socio-economic challenges, and sustainable development against the backdrop of global transformations in consumption patterns signifies the expansion of public procurement tools (Rybakova, 2018). “Green” procurement can become a major

¹ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 On the Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts. Available at: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32004L0018> [Accessed 01st March 2022].

² Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 Coordinating the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Postal Services Sectors. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004L0017> [Accessed 01st March 2022].

³ Sustainable Public Procurement. Official UNEP site. Available at: <https://www.unep.org/explore-topics/resource-efficiency/what-we-do/sustainable-public-procurement> [Accessed 31st January 2022].

driver of innovation, providing industry with real incentives to develop environmentally friendly products and services. The Ecological Union experts are convinced that green public procurement is one of the most effective tools for solving environmental problems at the state and global levels⁴.

Sustainable public procurement is inextricably linked to sustainable development, so public procurement plays a special role in countries' sustainable development frameworks⁵. Its impact for Russia is hard to overestimate. Firstly, public procurement contributes to enhancing industry practices, introducing innovation and new environmental technologies, as well as producing energy-efficient products. Secondly, sustainable public procurement (or “green” public procurement) is aimed at achieving the objectives of national projects in the Russian Federation and is of strategic importance; the need for its implementation is clearly stated in strategic documents, primarily in the Basics of State Policy in the Field of Environmental Development of the Russian Federation until 2030⁶ and in the National Project “Ecology”.⁷ Thirdly, sustainable public procurement can facilitate the transition to a circular economy, reducing transaction costs, environmental recycling and recycling. And finally, introduction of environmental requirements (environmental safety requirements) in public procurement (e.g., avoiding the use of highly toxic hazardous substances and hard-to-degrade materials, imposing limits on gas emissions, supporting employment and gender equality, excluding smuggled products, etc.) (Shadrina & Romodina, 2017) will contribute to better environmental situation in general.

Since sustainable public procurement reflects all three conceptual components of sustainable development, its aspects are social, economic, and environmental. Consequently, when characterizing and specifying sustainable public procurement it is necessary to comply with these three components.

In Russian practice, sustainable public procurement and green procurement are closely related concepts. However, not each public procurement is focused on sustainability. The main reasons for poor implementation of sustainable procurement are: 1) lack of knowledge about problems and their solutions; 2) need to establish sustainability criteria; 3) wrong interpretation of the rules, unclear and insufficient regulatory framework, lack of the regulatory framework of “green” public procurement.

State and municipal procurement involves budget funds, primarily, tax revenues. Within the EU as a single market, public procurement is based on principles that encourage competition and low prices.

⁴ Green Public Procurement. Environmental Union. Official website. Available at: <https://ecounion.ru/ekoprosveshhenie/zelenye-gozakupki/> [Accessed 03rd February 2022].

⁵ See for example the works on the study of sustainable development: (Bogolyubov, 2016.; Bykovskiy, 2021; Korolev & Mukhlylina, 2021; Zhuykov, Gutnikov, Sinitsyn & Shelyutto (eds.), 2021; Porfiriev, 2020).

⁶ Basics of State Policy in the Field of Environmental Development of the Russian Federation until 2030 (approved by the President of the Russian Federation on April 30, 2012). http://www.consultant.ru/document/cons_doc_LAW_129117/ [Accessed 31st January 2022].

⁷ National Project “Ecology”. Official website. Available at: <https://ecologyofrussia.ru/proekt/> [Accessed 25th January 2022].

Green Public Procurement (GPP) is an important tool for achieving environmental policy goals related to climate change, utilization of resources and sustainable consumption and production, especially given the importance of public sector spending on goods and services in Europe.

The practice of transition to green procurement in European countries has clearly demonstrated that a key role in how successfully the environmental principles will be used and how environmentally friendly the purchased products will be, is determined at the stage of identification of the need for purchased goods, works and services⁸ (Kuznetsova, Shadrina, Kontturi, Lankiniemi & Yulirusi, 2021).

Foreign countries promote the transition to a circular economy, including mechanisms of legal regulation; among organizational measures are approval of environmental indicators and development of regulations for green procurement⁹ (Berhane & Teklemedhn, 2009; Shmeleva, 2021).

The regulatory framework for green public procurement in the European Union began to take shape in the early 2000s¹⁰. The first initiatives of the European Commission contained the following proposals¹¹: establishing common environmental criteria for public procurement, encouraging publication of information on the life cycle costs of products, increasing confidence in the legal possibilities of including environmental criteria in the bidding documents, establishing political support for the promotion and implementation of green public procurement through a political objective linked to indicators and further monitoring.

According to the above communiqué, the following areas of the economy suggest green public procurement (priority sectors): construction, food and catering services, transportation, energy, office equipment and computers, clothing and other textiles, paper and printing services, furniture, cleaning supplies and services, and equipment in health care¹².

In EU countries, green public procurement conditions can be applied to contracts both above and below the threshold of the Procurement Directives. The 2014 Procurement Directives allow public authorities to take environmental aspects into account both during the pre-procurement, procurement process and execution of the contract. Contract exclusion and selection rules aim to ensure a minimum level

⁸ Russia presented guidelines for the inclusion of environmental criteria in public procurements. Available at: <https://ekovestnik.ru/article/419977/> [Accessed 01st February 2022].

⁹ Sustainable public procurement from rhetoric to practice. Dispelling myths and exploring effective solutions. A case study from Sweden. Version 1.1 March 2016. Layout: TCO Development. 25 p. Available at: https://www.oneplanetnetwork.org/sites/default/files/sustainable_public_procurement_-_from_rhetoric_to_practice.pdf [Accessed 02nd February 2022].

¹⁰ Outline of the Community (European Union) Legislation about Green Public Procurement. Available at: <https://europeanlaw.lawlegal.eu/green-public-procurement/> [Accessed 30th January 2022].

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 16 July 2008 on Public Procurement for a Better Environment. Available at: <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:52008DC0400> [Accessed 02nd February 2022].

¹² In the field of procurement regulation, see also: (Naushad, 2018).

of environmental compliance by contractors and subcontractors. Methods such as life-cycle assessment, specification of sustainable manufacturing processes, and environmental award criteria are available to help procuring agencies identify environmentally preferable bids. Green public procurement aims for financial savings especially when considering the full life-cycle cost of the contract, not just the purchase price. For example, the purchase of energy- or water-efficient products results in lower utility bills. Reducing the number of hazardous substances in products cuts down disposal costs. Authorities that implement green public procurement are better prepared to address emerging environmental issues, reduce greenhouse gas emissions, or transit to a closed-cycle economy.

In 2012, Ireland adopted its green public procurement action plan called Green Tenders. The plan stipulates that at least 50% of all procurements in eight product and service groups comply with environmental requirements. In 2014, the Environment Agency of Ireland published a comprehensive set of criteria and regulations for green procurement. The criteria are based on those established at EU level, but take into account specific procurement patterns and market structure in Ireland. The regulations also address both EU and national environmental legislation in Ireland.

Examples of green public contracts in the EU are energy efficient computers, office furniture made of green wood, low energy buildings, recycled paper, cleaning services using environmentally friendly products, electric, hybrid or low emission vehicles, renewable energy, and electricity, etc.¹³.

At the national level, most EU member states have now published National Action Plans (SPP National Action Plans (NAPs)) which outline various actions and support measures for green or sustainable public procurement¹⁴.

Most sets of criteria are based on life cycle assessment, and they are universal across the EU. Individual purchasers at local, regional and national levels have also implemented green and sustainable procurement practices. Criteria for a number of product groups are regularly reviewed. The criteria are intended to be included directly in the tender documents and include information on verification methods. Most criteria are available in all official EU languages.

Environmental and social criteria may be set in different parts of the procurement or refer to different product categories. The criteria may be directed at the supplier or the subject matter of the procurement. Criteria can also be set up as specific contractual conditions to be met.

The EU green public procurement criteria include two “tiers” for each sector.

The first level of EU green public procurement criteria or basic criteria, which are designed to facilitate the GPP application, focus on the key area(s) of environmental performance of a product or service and aim to keep the administrative costs of companies to a minimum.

¹³ Buying green! A Handbook on Green Public Procurement. 3rd Edition. European Commission. Luxembourg: Publications Office of the European Union, 2016.

¹⁴ See also: (Andrecka & Peterkova Mitkidis, 2017).

The second level of green public procurement criteria or comprehensive criteria involve more aspects or higher levels of environmental performance and are intended for authorities that want to go further in supporting environmental and innovation objectives.

The EU widely employ electronic green procurement systems. The electronic system can track the environmental procurement criteria, verify the submission of documentation by suppliers and their compliance with the requirements. The electronic system utilizes an automatic (built-in) functions of life cycle assessment and integration with the sources of environmental criteria (label databases).

Let us consider the normative regulation of the green public procurement process in the European Union. Public procurement is subject to general principles derived from the EU Treaty and specific rules set out in directives. Both sources of law are relevant to green public procurement¹⁵.

The preparatory phase is crucial. Careful analysis and planning is necessary before issuing a tender if environmental goals are to be achieved. This promotes efficient contract performance and optimal value for money throughout the entire life cycle. Different procedures depending on the subject matter of the contract and information gathered during the pre-procurement phase are used to implement green public procurement.

The EU has approved the principles of green public procurement. Public procurement consists of adjusting supply and demand in order to provide goods, services and works for which the public sector is responsible. Value for money is a key factor as well as ensuring an appropriate level of competition and compliance with EU regulations and national legislation. Environmental protection can be one of these factors and, therefore, can act as an equal consideration when entering into a contract.

The most significant of the factors are: 1) Non-discrimination: customers should ensure equal access to the contract for operators from all EU countries and from countries with equivalent rights; 2) Equal treatment suggests the same (typical) requirements for comparable situations. For example, the same time schedules should apply to all bidders and information is provided to everyone, but tenders with different levels of environmental performance should receive different scores according to the environmental award criterion; 3) Transparency: tender opportunities are public and open to ensure equal access of participants and competition, including the procurement decision-making process, and in case of bid rejection, giving reasons for the losing bidder; 4) Proportionality means that measures, adopted for the procurement process must be sufficient and consistent with the objectives.

Environmental requirements should include such elements as the subject matter of the contract and product specifications, grounds for the selection or exclusion of the bid, criteria for awarding and additional points to the bid, and clauses on contract performance (Smetanina & Agapova, 2020).

¹⁵ See also: (Zhavoronkova & Shpakovskiy, 2021).

The EU applies joint procurement or procurement activities of a group of public authorities, which allows significant budget savings due to bulk purchasing, reduction of administrative costs and pooling of environmental, technical and market competences. Joint procurement is also promising for green public procurement, as effective interaction of stakeholders and sharing knowledge of environmentally friendly products and socially responsible companies on the market allows making better choices. Joint procurement can be carried out by central procurement bodies at regional and national level to carry out procurement on behalf of public authorities.

Energy Performance Contracting (EPC) is a contractual agreement between a building owner or tenant (including public authorities) and an energy service company to improve the energy efficiency of a building. The investment costs are typically covered by a third party or energy service company, so it is not financially burdensome for government agencies. The energy service company receives remuneration associated with the guaranteed energy savings. At the end of the period specified in the contract, the funds saved by improving the energy efficiency of the building are returned to the public authorities. Energy performance contracts are often awarded to groups of buildings to make the contracts more attractive to potential investors.

Framework agreements are common to make bidding more efficient. A framework agreement can be awarded to one or more operators and allows multiple contracts to be awarded without repeating the entire procurement process.

The requirements for supply and service contracts are different.

When deciding on a supply contract the environmental impact of the materials used to manufacture the product (e.g., raw materials from renewable sources), the environmental impact of the production process technologies, energy and water consumption during the use of the product (goods), durability and service life of the product, recycling or reuse possibilities at the end of its service life, packaging and transportation of the product are taken into account.

Requirements for work and services contracts include technical competence and qualification of personnel to perform the contract in an environmentally friendly way, environmental and ethical characteristics of products or materials in the process of service provision, introduction of environmental management quality system, energy and water consumption, and waste generated during the performance of official duties by employees of the company — applicant for the service contract.

The UN has adopted the One Planet Sustainable Public Procurement Program (Strategic Plan 2019—2022). The Strategic Plan serves as a tool for achieving SDG 12 “Responsible Consumption and Production”¹⁶. The One Planet Network’s Sustainable Public Procurement Plan is a global multi-stakeholder umbrella program

¹⁶ One Planet Sustainable Public Procurement Programme. Available at: https://www.oneplanetnetwork.org/sites/default/files/one_planet_sustainable_public_procurement_programme_strategy_dec19.pdf [Accessed 02nd February 2022].

that meets, shares and works together to implement sustainable public procurement and transition to sustainable production and consumption.

The overall vision of the UN Sustainable (Green) Public Procurement Program is “a world where environmental, economic and social aspects of sustainability are embedded in public procurement strategies, processes and policy practices as a means of improving efficiency, value of public spending, good governance and integrity in public procurement” (Smetanina & Agarova, 2020).

The program has four areas of focus.

Work-stream 1 aims at supporting the implementation of sustainable public procurement (SPP) by assisting procuring entities and procurement professionals at the local, regional and national levels to implement SPP policies, strategies, processes and practices that address the environmental, economic and social aspects of SDG 12.

Work-stream 2 focuses on enabling environment to stimulate change in international industry markets through procurement. The SDG program places a strong emphasis on cooperation between supply chains (logistics) at the sector level as a way to enhance major change in specific high-volume or complex global markets.

Work-stream 3 involves advocating and mobilizing political leadership and support for sustainable procurement as a key mechanism for implementing the 2030 Agenda and related SDGs (Sustainable Development Goals) at international, national, regional and local levels. International cooperation, global commitments and regulation, as well as political support and reforms to implement green procurement are essential to accelerate the implementation of the SDGs around the world.

Work-stream 4 supports countries in promoting the economic, social and environmental value of green public procurement and its role in achieving the UN Sustainable Development Goals as a key mechanism for implementing the 2030 Agenda.

The legal aspects of green public procurement are considered within the framework of environmental law (state environmental law) (Czarnezki, 2019; Melon, 2020).

Proposals for Russian environmental and contractual legislation development. After analyzing the European experience in regulating the implementation of “green” public procurement, we can formulate a number of proposals for the development of Russian environmental and contractual legislation.

The provisions of the Law No. 44-FZ¹⁷ has provided an opportunity to establish environmental requirements for procurement; this law provides benefits to suppliers of goods, works and services by considering such requirements in the contract forms and standard terms and conditions envisaging various cases and conditions

¹⁷ Federal Law On the Contract System in State and Municipal Procurement of Goods, Works and Services No. 44-FZ of 05.04.2013. Available at: http://www.consultant.ru/document/cons_doc_law_144624/ [Accessed 02nd February 2022].

for their application (Part 11 of Article 34 of the Law No. 44-FZ). However, customers can take advantage of this opportunity in compliance with the legally established restrictions (Anchishkina, Gracheva & Ismailov, 2020). Such contracts in Russia are few. Obligations to take into account environmental requirements are not directly stipulated in the contracts, and this issue is not regulated by the contract.

Decree No. 67-PP On the Procurement System of the City of Moscow does not contain any special environmental requirements in the description of the subject matter, and/or standard terms and conditions of the contract¹⁸.

The modern version of the 44-FZ contains a requirement to justify (if there are no standards) the need to take into account environmental criteria in procurement. According to foreign experience, a participant of the green procurement must provide the necessary documents confirming compliance with environmental criteria and implementation of the QMS (quality management system) in the field of ecology and environmental protection. In addition, due to the electronic form of applications, information on the sources and reliable facts of obtaining licenses, certificates and their compliance must be automatically downloaded from databases during the examination.

Presumably, confirmation for ISO certification for contract bidders can be seen as one way of incorporating environmental criteria. ISO standards in the field of environmental management, sustainable development and industrial safety have been very widely used in recent years¹⁹.

ISO 14000 is an international standard that contains requirements for environmental management system certification. The ISO 14000 series of standards provides practical tools for various environmentally responsible companies and organizations.

The first version of ISO 14001 was published in 1996. A new version of ISO 14001 was published in 2004 and the latest version was released in 2015. The ISO 14001 standard does not offer specific environmental approaches and methods for managing environmental observations, it does not offer specific environmental indicators but outlines general requirements for environmental management. The purpose of ISO 14001 is to comply with environmental protection measures and prevent environmental damage while maintaining a balance with the interests of the organization. Such certification is voluntary, independent and can be required by users.

The main requirements of ISO 14001 are grouped as follows: the environmental management system, environmental policy (including the commitment to prevent negative impacts on the shareholder's body), actions to deal with risks and desires,

¹⁸ Decree of the Moscow City Government No. 67-PP of February 24, 2012 On the Procurement System of the City of Moscow. Available at: <https://base.garant.ru/70143936/> [Accessed 02nd February 2022].

¹⁹ Global Green Standards. ISO 14000 and Sustainable Development. Available at: <https://www.iisd.org/system/files/publications/globlgrn.pdf> [Accessed 16th February 2022].

environmental effects, environmental objectives and planning to achieve them, introduction of environmental law, its application and enforcement, competence and training of staff and contractors, emergency preparedness and response, performance analysis and analysis by external parties and constant improvement of business processes.

ISO 14001:2015²⁰ sets out the requirements for an environmental management system (EMS) that an organization can use to improve its environmental performance. ISO 14001:2015 is intended for use by organizations seeking to systematically manage their environmental responsibilities thus contributing to the environmental component of sustainability. ISO 14001:2015 helps an organization achieve the intended outcomes of its environmental management system that provide value to the environment, organization itself and its stakeholders. In accordance with the organization's environmental policy, the expected results of the environmental management system include improving environmental performance, meeting compliance obligations, and achieving environmental goals. ISO 14001:2015 is applicable to any organization, regardless of its size, type or nature, and applies to the environmental aspects of its operations, products and services that the organization can either control or influence in terms of the life cycle perspective. ISO 14001:2015 does not establish specific criteria for environmental performance. It can be used in whole or in part to systematically improve environmental management. Declarations of compliance with ISO 14001:2015 are, however, unacceptable if all its requirements are not included in the organization's environmental management system and are not fully complied with.

ISO 14004:2016²¹ provides guidance for an organization to establish, implement, maintain and improve a robust, credible and reliable environmental management system. The guidance contained in ISO 14004:2016 can help an organization improve its environmental performance and allows to integrate the EMS elements into its core business process. Although an environmental management system is not intended to manage health and safety issues, it can be included when an organization seeks to implement an integrated environmental and health and safety management system.

ISO 14005:2019²² provides guidance on a phased approach to establishing, implementing, maintaining and improving an environmental management system (EMS) that organizations, including small and medium-sized enterprises (SMEs), can adopt to improve their environmental performance. The phased approach provides flexibility to allow organizations develop their own EMS at their own pace, in several stages, according to their circumstances. Each stage consists of six

²⁰ ISO 14001:2015. Environmental Management Systems — Requirements with guidance for use. Available at: <https://www.iso.org/ru/standard/60857.html> [Accessed 16th February 2022].

²¹ ISO 14004:2016. Environmental Management Systems — General guidelines on implementation. Available at: <https://www.iso.org/ru/standard/60856.html> [Accessed 16th February 2022].

²² ISO 14005:2019. Environmental Management Systems — Guidelines for a flexible approach to phased implementation. Available at: <https://www.iso.org/ru/standard/72333.html> [Accessed 16th February 2022].

consecutive steps. The maturity of the system at the end of each stage can be characterized with the help of a five-level maturity matrix. The document is applicable to any organization, regardless of its current environmental performance, nature of the conducted activities, or location of its operation. The step-by-step approach allows an organization to develop a system that ultimately meets the ISO 14001 requirements.

Despite the awareness of environmental standards by Russian companies, there are certain problems in the development of environmental management. Among the challenges are: a narrow environmental understanding of the activities of enterprises and discovery of environmental management systems, lack of understanding of the benefits of environmental standards, insufficient general management and low legal culture at the enterprise, poor awareness of improving competitiveness through environmental management standards, lack of understanding of the necessity to improve the quality of changes in approaches to environmental problems, lack of effective regulatory measures of economic incentives for environmental standards implementation.

However, the legal conditions to ensure environmental safety are being created²³ (Titova, 2020; Novikova, 2020). That includes regulation of environmental requirements in procurement. It seems advisable to include the principle of environmental safety in Art. 6 Principles of the Contract System in the Sphere of Procurement of FZ-44 and Art. 12 Principle of Responsibility for Performance of State and Municipal Needs and Efficiency of Procurement to supplement the principle of environmental safety application.

Conclusion

Legislation on green procurement in the world has not yet been fully completed; this is due to the increased inclusion of industries in the green list. The environmental component and compliance with green criteria are fundamental for organization's participation in green procurement. Russian practice and legislation on green procurement is only emerging and lags behind the world, especially European practice in this matter.

At the current stage of their development the European Union countries are turning to new economic models, where it is possible to create wealth and ensure economic growth without harming the environment by developing legal norms of transition to a green economy. The European Union helps citizens and governments to *green* their economies by managing resources more efficiently, introducing economic and legal tools to protect the environment, supporting green innovation, ensuring environmental policy in relation to water and waste management.

²³ Progress in the Areas of Energy Efficiency and Renewable Energy in Selected Countries of the UNECE Region. The UNECE Energy No. 59. UN. Geneva, 2019. 125 p.

Green public procurement is seen as one of the key tools for implementing environmental policy and ensuring environmental safety at the national level. In the countries of the European Union and in the Russian Federation the instruments of legal regulation of the green economy are developing quite rapidly, especially it has to do with the development of the institute of green public procurement.

References / Список литературы

- Anchishkina, O.V., Gracheva, Yu.A. & Ismailov, R.A. (2020) *State “green” procurement: experience of legal regulation and proposals for implementation in Russia*. Moscow, Ecological union. World Wildlife Fund (WWF) Publ. (in Russian).
Анчишкина О.В., Грачева Ю.А., Исмаилов Р.А. Государственные «зеленые» закупки: опыт правового регулирования и предложения по внедрению в России. М.: Экологический союз. Всемирный фонд дикой природы (WWF), 2020. 64 с.
- Andrecka, M. & Peterkova Mitkidis, P. (2017) Sustainability requirements in EU public and private procurement — a right or an obligation. *Nordic Journal of Commercial Law*. 1, 55—89.
- Berhane, T. & Teklemedhn, M. (2009) *Environmental Law Teaching Material*. Mekelle University Faculty of Law.
- Bogolyubov, S.A. (2016) Correlation of Ecological Policies of Russia and other States. *Environmental law*. 4, 23—32. (in Russian).
Боголюбов С.А. Соотношение экологических политик России и других государств // Экологическое право. 2016. № 4. С. 23—32.
- Vykovskiy, V.K. (2021) The Concept of Sustainable Development in accordance with Forestry Legislation. *Actual Problems of Russian Law*. 16 (8), 173—181. <https://doi.org/10.17803/1994-1471.2021.129.8.173-181> (in Russian).
Быковский В.К. Понятие устойчивого развития в соответствии с лесным законодательством // Актуальные проблемы российского права. 2021. Т. 16. № 8 (129). С. 173—181. <https://doi.org/10.17803/1994-1471.2021.129.8.173-181>
- Czarnezki, J.J. (2019) *Green Public Procurement: Legal Instruments for Promoting Environmental Interests in the United States and European Union*. Uppsala: Uppsala University. Available at SSRN: <https://ssrn.com/abstract=3504676> [Accessed 02nd February 2022].
- Zhuykov, V.M., Gutnikov, O.V., Sinitsyn, S.A. & Shelyutto, M.L. (eds.) (2021) *Sustainable Economic Growth and Law: the Collection of Materials for the XVI Annual Scientific Readings in Memoriam of Professor S.N. Bratus*. The Institute of Legislation and Comparative Law under the Government of the Russian Federation. Moscow, Jurisprudence Publ. (in Russian).
Устойчивый экономический рост и право: сборник материалов к XVI Ежегодным научным чтениям памяти профессора С.Н. Братуся / ред. кол.: В.М. Жуйков, О.В. Гутников, С.А. Синицын, М.Л. Шелютто; Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации. М.: Юриспруденция, 2021. 256 с.
- Korolev, S.V. & Mukhlynina, M.M. (2021) On the Issue of Support of Environmental Safety within the Concept of Sustainable Development: Comparative and International Law Aspect. *Business Security*. 4, 45—52. <https://doi.org/10.18572/2072-3644-2021-4-45-52> (in Russian).
Королев С.В., Мухлынина М.М. К вопросу обеспечения экологической безопасности в контексте концепции устойчивого развития: сравнительный и международно-правовой аспект // Безопасность бизнеса. 2021. № 4. С. 45—52. <https://doi.org/10.18572/2072-3644-2021-4-45-52>

- Kuznetsova E.M., Shadrina E.V., Kontturi C., Lankiniemi S. & Yulirusi H. (2021) *Guidance for incorporating environmental criteria into public procurement. Chemical safety criteria*. Moscow, Ecological Union, GUAP Publ. (in Russian).
Кузнецова Е.М., Шадрина Е.В., Контттури К., Ланкинъеми С., Юлирусси Х. Руководство по включению экологических критериев в государственные закупки. Критерии химической безопасности. М.: Экологический союз, ГУАП. 2021. 76 с.
- Melon, L. (2020) More Than a Nudge? Arguments and Tools for Mandating Green Public Procurement in the EU. *Sustainability*. 12(3), 988. <https://doi.org/10.3390/su12030988>
- Naushad, Kh. (2018) *Public Procurement Fundamentals: Lessons from and for the Field*. Bingley, UK, Emerald Publishing Limited.
- Novikova, E.V. (2020) Conceptual bases of legal regulation of “green” economy in Russia. *Environmental law*. 5, 3—10. <https://doi.org/10.18572/1812-3775-2020-5-3-10> (in Russian).
Новикова Е.В. Концептуальные основы правового регулирования «зеленой» экономики в России // Экологическое право. 2020. № 5. С. 3—10. <https://doi.org/10.18572/1812-3775-2020-5-3-10>
- Porfiriev, B.N. (2020) *Sustainable development, climate and economic growth: Strategic challenges and solutions for Russia*. Saint Petersburg : SPbGUP Publ. (in Russian).
Порфирьев Б.Н. Устойчивое развитие, климат и экономический рост: стратегические вызовы и решения для России. Санкт-Петербург: Санкт-Петербургский гуманитарный университет профсоюзов, 2020. 40 с.
- Rybakova, M.I. (2018) Legislative framework for the development of “green” procurement in Russia. *Bulletin of economic security*. 4, 66—72. (in Russian).
Рыбакова М.И. Законодательные основы развития «зеленых» закупок в России // Вестник экономической безопасности. 2018. № 4. С. 66—72.
- Smetanina, T.P. & Agarova, E.V. (2020) *Greening procurement activities*. Moscow, RANEPА Publ. (in Russian).
Сметанина Т.П., Агарова Е.В. Экологизация закупочной деятельности. М.: РАНХиГС, 2020. 114 с.
- Shadrina, E.V. & Romodina, I.V. (2017) Public procurement for sustainable development: international experience. *Issues of state and municipal management*. 1, 150—172. (in Russian).
Шадрина Е.В., Ромодина И.В. Государственные закупки для устойчивого развития: международный опыт // Вопросы государственного и муниципального управления. 2017. № 1. С. 150—172.
- Titova, M.V. (2020) Legal regulation of environmental safety, *Domestic jurisprudence*. 6(20): 73—75. (in Russian).
Титова М.В. Правовое регулирование экологической безопасности // Отечественная юриспруденция. 2020. № 6 (20). С. 73—75.
- Zavoronkova, N.G. & Shpakovskiy, Yu.G. (2021) Foreign Regulatory Expansion in Environmental Regulation. *Lex Russica*. 6 (175), 56—67. <https://doi.org/10.17803/1729-5920.2021.175.6.056-067> (in Russian).
Жаворонкова Н.Г., Шпаковский Ю.Г. Зарубежная нормативная экспансия в экологическом регулировании // Lex Russica (Русский закон). 2021. № 6 (175). С. 56—67. <https://doi.org/10.17803/1729-5920.2021.175.6.056-067>

About the author:

Maria A. Egorova — Doctor of Legal Sciences, Full Professor, expert of the Russian Academy of Sciences, Head of the International Cooperation Department, Professor of the Competition Law Department, Kutafin Moscow State Law University (MSAL); 9 Sadovaya-Kudrinskaya str., Moscow, 125993, Russian Federation; expert of the Center for scientific and

expert analysis, Institute of Scientific and expert-analytical activity, Russian State Academy of Intellectual Property; 55a Miklukho-Maklaya str., Moscow, 117279, Russian Federation; co-President, International Alliance of lawyers and economists; 106, rue Edouard Herriot, Lyon, 69002, France

ORCID ID: 0000-0002-0227-8845

e-mail: maegorova@msal.ru

Сведения об авторе:

Егорова Мария Александровна — доктор юридических наук, профессор, эксперт РАН, начальник управления международного сотрудничества, профессор кафедры конкурентного права, Московский государственный юридический университет имени О.Е. Кутафина (МГЮА); Российская Федерация, 125993, г. Москва, ул. Садовая-Кудринская, д. 9; эксперт, Центр научной и экспертной аналитики, Международный центр компетенций «АйПи», Российская государственная академия интеллектуальной собственности (РГАИС); Российская Федерация, 117279, г. Москва, ул. Миклухо-Маклая, д. 55а; со-президент Международного союза юристов и экономистов; Франция, 69002, г. Лион, ул. Эдуарда Ериот, д. 106

ORCID ID: 0000-0002-0227-8845

e-mail: maegorova@msal.ru