

THE WAR IN UKRAINE ACCELERATES THE PATH TO RENEWABLE ENERGY

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The invasion of Ukraine has exposed the European continent's energy dependency. The price of gas, oil, coal and other raw materials has skyrocketed, and – in this context – the commitment to renewable energies appears the most viable solution. This new scenario of uncertainty undoubtedly involves a series of legal implications and challenges.

Hermenegildo Altozano, Bird & Bird's energy partner, opines, "one of the main legal challenges facing the energy sector is that which derives from the approval of regulations that partially modify existing regulations and may represent alterations to investment plans or projects that are already, in some occasions, measures that are initially conceived for a specific situation to alter the financing structure and the development of projects or corporate operations in progress."

This is the case of Royal Decree-Law 6/2022, of March 29, which adopts urgent measures within the framework of the National Plan to respond to the economic and social consequences of the war in Ukraine. This regulation introduces a series of regulatory changes in the energy sector, requiring law firms to undertake an exhaustive study.

The measure launched by the Government "represents a certain fiscal effort to try to reduce energy prices and serve vulnerable consumers," according to Ignacio Grangel, partner in the Public Law and Regulated Sectors, CMS Albiñana & Suárez de Lezo.

Borja Carvajal, partner in the Public Law and Regulated Sectors, Gómez-Acebo y Pombo, positively highlights in this complex regulation "the streamlining of environmental procedures and the authorization of certain renewable generation facilities."

However, many investors and operators in the energy market warn of the insecurity and legal risk that these initiatives may cause and that would affect, in some way, the development of energy operations.

According to Bird & Bird partner, **Ignacio Grangel**, "The measures relating to changes in the installations that receive a specific remuneration regime may affect the principle of reasonable profitability of standard installations, which is why they have not been good news for investors."

The need to obtain authorization to make foreign investments in the energy sector (art.7 bis Law 19/2003), a measure in principle to deal with the pandemic, has been maintained with the consequent uncertainty about the closing date of M&A operations in the energy sector, according to Grangel. In addition, "investors are very sensitive to regulatory changes, and it is necessary to respect the legitimate expectations of those who have adjusted their economic behaviour to the regulatory framework in force when the investments were projected."

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