

From the Volume Editor

Articles

Paweł Hawranek, Dariusz Michalski, Nina Wielgosz, **New obligations for energy market participants arising from the MAR Regulation**

Table of contents:

- I. Introduction
- II. Market manipulation in the energy sector. Genesis
- III. Regulation of financial markets and commodity markets. Overview. Indication of the adjustment range critical for energy market participants.
 1. MiFID II
 2. EMIR
 3. REMIT
 4. CDR IV Directive
- IV. Regulation on market abuse (MAR). Characteristics of key responsibilities from the point of view of energy market participants.
- V. Timetable for the implementation of MAR
- VI. Impact of MAR on trading on the energy market
 1. MAR vs. REMIT
 2. Impact of MAR on activities of energy companies on the market for CO2 allowances
 3. Publication of information under REMIT and MAR
- VII. Concluding remarks

Summary

The aim of the paper is to present the impact of the Regulation on market abuse (MAR) on duties placed on companies trading in commodity derivatives. It also tackles the issue of the influence of the MAR Regulation on the commodity market and its relation to other legislation regarding the energy and gas market (REMIT, EMIR, MiFID II). The paper discusses also the precariousness and consequences of such legislative scope. Moreover questions are posed regarding the planned implementation schedule for the MAR Regulation as well as challenges for entities active on the energy market.

Key words: MAR, MAD, MiFID II, EMIR, Insider trading, Energy market, Risk, Hedging, Insider/Sensitive information, Economic Regulation, Firm Regulation.

JEL: G140, L510

Ilona Szwedziak-Brok, **Abuse of a dominant position by local district heating companies on local markets**

Table of contents:

- I. Introduction
- II. Characteristics of the sector
- III. Local district heating market as a relevant market

1. Product market
2. Geographic market
- IV. Dominant position on local district heating markets
- V. Abuse of a dominant position by district heating companies – the decision-making practice of the President of the Office for Competition and Consumer Protection (UOKiK)
- VI. Conclusions

Summary

The aim of this article is to analyse the district heating sector in the context of unilateral anti-competitive behaviours of companies acting on local district heating markets. The lack of an ‘unbundling’ rule in the district heating sector, and the problematic issue of ‘third party access’ results in companies being relatively more willing to abuse their dominant positions held in local markets. The decision-making practice of the President of UOKiK, the Polish NCA, has been presented in order to better illustrate such unilateral behaviours alongside a description of the characteristic features of the district heating sector.

Key words: local district heating market, competition, district heating company, relevant market, abusing of dominant position

JEL: K23; L43

Elżbieta Małecka, **Scope and Forms of Collaboration of the President of the Office of Electronic Communications and the President of the Energy Regulatory Office**

Table of Contents:

- I. Introductory Remarks
- II. Scope of Collaboration
- III. Forms of Collaboration
- IV. Examples of Collaboration of the President of the Office of Electronic Communications (UKE) and the President of the Energy Regulatory Office (URE)
 1. Memorandum on the Collaboration for Counteracting the Phenomenon of Theft and Devastation of Infrastructure
 2. Agreement on the Elimination of Barriers in Telecommunication and Energy Investments
- V. Final Remarks

Summary

The article presents the collaboration of the President of UKE and the President of URE from a theoretical and a legal perspective. The first part of the paper discusses provisions concerning the collaboration of both bodies and the possible forms of collaboration developed by the doctrine. The second part deals with the analysis of examples of collaboration of the two sectorial regulators, the President of UKE and the President of URE, based on the following documents: Memorandum on the Collaboration for Counteracting the Phenomenon of Theft and Devastation of Infrastructure and the Agreement on the Elimination of Barriers in Telecommunication and Energy Investments.

Key words: President of the Office of Electronic Communications; President of the Energy Regulatory Office

JEL: L43, L50, L96

Sonia Auguścik, **Penal sanctions specified in the Energy Law Act**

Table of contents

- I. Introduction
- II. Legal status after the amendment
- III. Purpose of introducing penal sanctions
- IV. Control procedures and standards of investigatory proceedings
- V. Catalogue of penal sanctions (the nature of the penalties)
- VI. Concluding remarks
- VII. Closing argument

Summary

The amended Energy Law Act entered into force on 11 September 2015 and implements the REMIT Regulation into the Polish legal system. This article focuses on the penal sanctions specified in section 7a of the Polish Energy Law Act. Criminal liability is new for the domestic energy sector. The analysis includes issues such as: the purpose of introducing penal provisions, the catalogue of criminal sanctions (and their nature) as well as procedural standards (the investigation). This analysis was conducted in accordance with generally applicable laws, taking into account the views of jurisprudence and criminal law doctrine.

Key words: penal provisions; criminal liability; Energy Law Act; REMIT Regulation

JEL: K23

Telesfor Marek Markiewicz, **Security of EU Member States in the integration process of the European airspace**

Table of contents:

- I. Introduction
- II. Protection of the interests of national security and defence policy
- III. Guarantee of satisfying operational requirements of military users of the single European sky
- IV. Military aspects of the SESAR programme
- V. Summary

Abstract: The aim of this article is to assess the impact of two priority programmes implemented by the EU in the area of air transport on the security and defence of EU Member States. The two programmes under considerations include: the legislative programme on the Single European Sky (SES) and the programme of the technical modernization of the European air traffic management system (SESAR). The above programmes do not directly apply to the military air transport and yet a variety of legal provisions and operational and technical solutions created in the course of their development indirectly influence the activities of military aviation and other military users of the European airspace. The paper examines the relationship between legal standards from the scope of the SES and military activities in EU Member States. It highlights the need for cooperation of civil aviation authorities with relevant military authorities (at the political, operating and technical level). It also notes the possible benefits of this cooperation for both parties.

Key words: national security; defence policy; the common transport policy; the Single European Sky (SES); the SES ATM Research and Development programme (SESAR); the operational requirements of military aviation.

JEL: K33, L93, L98

Mateusz Osiecki, **Cape Town Convention and the Aircraft Protocol – selected issues**

Table of Contents

- I. Introductory remarks
- II. Scope of application
- III. Conditions of concluding contracts
- IV. Influence on the contract of lease
- V. Issues related to the contract of sale
- VI. Remedies
- VII. Protection of debtors
- VIII. Some comments about the International Registry
- IX. Situation of parties in the event of insolvency
- X. Economic effects
- XI. Final remarks

Summary

The purpose of article is present selected issues of the Cape Town Convention on International Interests in Mobile Equipment of 16 November 2001 and the attached Protocol on Matters Specific to Aircraft Equipment, highlighting those of its aspects that relate to civil aviation trade. The introduction presents an overview of the term 'International interest' principal to both acts. The following sections cover conditions for concluding contracts with an 'international interest', criteria of sale and lease of aeroplane agreements, remedies available to creditors including those available in the event of a debtor's insolvency. The paper covers also the institution of the 'International Registry' that ensures security of trade and protects the interests of those first to register. The last part of the article is a short study on economic effects linked with the potential ratification of the above acts of international law by Poland.

Keywords: Cape Town Convention; Aircraft Protocol; Interest; International Registry; Lease; Sale; Insolvency; Aircraft Objects; Priority

JEL: K11, K33, L93

Legislation and Case Law Review

Application of tariffs during a transitional period and the permissibility of the imposition of financial penalties for the application of tariffs contrary to the obligation to submit them first to the President of the Energy Regulatory Office (URE).

Case Comment to the judgment of the Supreme Court of 13 January 2016, No. III SK 6/15 (Anis Ben Amer, Tomasz Feliszewski)

Tables of judgments of the Supreme Court in energy matters 2015 (Anna Janosz)

Tables of judgments of the Court of Appeals in energy matters 2015 (Anna Janosz)

Tables of judgments of the Competition and Consumers Protection Court in energy matters 2015 (Anna Janosz)

Bibliography of Energy Law (Anna Janosz)

Reports

Report of National Consumer Conference, Katowice 2016 (Anna Janosz)