

Słowo wstępne (from the Volume Editor)

ARTICLES

Radosław Mędrzycki, **Renewable energy sources in the context of social solidarity – an introduction to related issues**

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- I. Introduction
- II. Renewable energy sources (RES)
- III. Impact of social solidarity on the perception of RES
- IV. Ending remarks and conclusions

Summary: The representatives of administrative law science exhibit an increasing interest in matters of renewable energy sources. Among more detailed issues, the axiology concerning renewable energy sources is being investigated to a far greater depth. Axiology issues are the main focus of this paper. The author tries to establish whether it is viable to correlate the development and use of renewable energy sources with the principle of solidarity understood as an intergenerational relation. The conducted research leads to the conclusion that such relation is possible on axiological and legal grounds.

Key words: renewable energy, solidarity

JEL: K32

Magdalena Porzeżyńska, **Comments on the concept of “energy from renewable sources” in European Union law**

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- II. Definition of renewable energy sources and energy from renewable sources in European Union law
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 2. The concept of energy from renewable sources under Directive 2009/28/EC
 3. The concept of energy from renewable sources under other EU acts
- III. The concept of renewable energy in the case law of the Court of Justice
- IV. Summary

Summary: The objective of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 (as well as its replacement Directive 2018/2001 of 11 December 2018) on the promotion of the use of energy from renewable sources, is to increase the use of renewable energy sources. The starting point for any further considerations in terms of issues regulated by those legal acts should be systematizing the terminology related to the concept of energy from renewable sources. It should be noted that these issues remain largely unexplored in greater depth

by literature. Therefore, the subject of this article is not only the analysis of how the concept of energy from renewable sources is defined in EU law, but also how this term is interpreted in the case law of the Court of Justice.

Key words: Directive 2009/28/EC; Directive 2018/2001; renewable energy sources; energy from renewable sources; Court of Justice

JEL: K23

Anna Mathews, **The Union renewable energy financing mechanism in the Regulation on the Governance of the Energy Union and Climate Action – analysis of legislative proposal and the current version of the legal provision**

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- II. The most important resolutions of the Regulation on the Governance of the Energy Union and Climate Action
- III. The European Union RES financing platform – the first version of the provision of the proposal for the Regulation, comments and suggestions for changes
- IV. The Union renewable energy financing mechanism – the provisions of the Regulation
- V. Summary

Summary: The subject of this article is the analysis of one of the solutions presented in the Regulation on the Governance of the Energy Union and Climate Action (hereinafter: the Regulation) – the so-called Union renewable energy financing mechanism (in the proposal for the Regulation – the RES financing platform). Presented in the article are the most important resolutions of the Regulation (i.a. introduction of numerous reporting requirements). Stressed is also the purpose of the Regulation – to equip the European Commission (EC) in instruments allowing it to meet EU requirements of climate and energy for 2030 (binding at EU level) and achieving the objectives (five pillars) of the energy union. These instruments will allow the EC to enforce from Member States the, i.a., proposed share of energy from RES in EU final energy consumption levels. One of such instruments is a financial mechanism, to which monetary contributions will be made by Member States whose share of energy from RES falls below the declared level. The article discusses proposals for the Regulation concerning the financing platform, presented in November 2016 (as part of the so-called ‘Winter Package’), and comments on these solutions along with proposed changes. The publication also presents the current assumptions about the functioning of the financial mechanism – in connection with the changes to the proposal for the Regulation introduced in the legislative process.

Key words: ‘Winter Package’, Regulation on the Governance of the Energy Union, RES, financing platform, financing mechanism, RES targets

JEL: K20, K23, K32

Paweł Konrad Domagała, **New regulation of reserve sales of electricity**

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- I. Introduction
- II. Change of the electricity seller
- III. Reserve sales of electricity and related risks
- IV. Changes in the scope of reserve sales
- V. Conclusions

Summary: The energy sector in Poland has undergone many revolutionary changes in recent years. One of the most important is the liberalization of the electricity market. The possibility to change the electricity supplier exists since 1 July 2007, abolishing the pre-existing regionalization that had resulted in the assignment of end users to top-down electricity sellers. The possibility to change the electricity seller to entities with a weaker market position was inseparably connected with the risk of them ceasing to provide services to end-users. Until 2016, this was only a vague vision expressed by market pessimists. However, this problem has now become very real, especially for over 130,000 households which are currently facing this problem. In such situation, end-users still have access to electricity, but in this case, as part of a 'reserve sale'. The purpose of the article is to analyze the current and pre-existing legal state in the field of reserve sale of electricity, and thus to indicate what a 'reserve sale' actually is and what are the risks related to it for end-users. In addition, the article presents to which extent the amendment of the Polish Energy Law Act, adopted in November 2018, and which includes the comprehensive regulation of reserve sale of electricity, will strengthen the protection of electricity end-users.

Key words: sale of electricity; reserve sale of electricity; energy law; energy security

JEL: K12; K23; K32

Michalina Szpyrka, **A few remarks about limitation periods of fines in the Energy Law Act**

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- VII. Summary

Summary: The purpose of this article is to present the institution of limitation periods of fines derived from the Energy Law Act. The institution of limitation periods is important in the context of legal certainty, because an individual must have knowledge to what an extent, including time, public administration authorities have the power to regulate its legal position. The issue of limitation periods of fines based on the Energy Law Act was not clearly settled by the doctrine or judicature.

It was thus necessary to analyze and outline the development of this institution in the period of the applicability of the Energy Law Act, to ensure its effective use and to prevent potential abuses, in the form of imposing fines at a time when they are already time-barred. Studies devoted to this issue have shown that the institution of limitation periods also applies to fines from the Energy Law Act. However, it is shaped differently, depending on the manner of regulation of this institution during the period of the validity of the Energy Law Act.

Key words: fines; limitation; Energy law; Tax ordinance

JEL: K23

Maciej Kapalski, **Genesis and legal status of the guarantee document of the origin of energy from renewable sources, as a document confirming the environmental footprint, in the light of national regulations. Comments *de lege ferenda***

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- I. Introduction – legal framework for the institution of guarantees of the origin of energy from renewable sources
- II. Source of the institution guaranteeing the origin of energy from renewable sources
- III. Legal status of the guarantee institution of the origin of energy from renewable sources
- IV. Environmental footprint
- V. Comments *de lege ferenda*
- VI. Summary

Summary: The main reason for the development and support of energy production from renewable sources is the energy and climate policy of the European Union focused on increasing the efficiency of the use of available resources. This is particularly important in the context of the “3 × 20%” package, which provides for a reduction of greenhouse gas emissions, increase of energy efficiency and renewable energy growth at 20% in 2020, and in Poland to a level of at least 15%. The aim of this article is to analyze and evaluate legal regulations concerning the institution guaranteeing the origin of energy from renewable sources by reference both to European Union law and national legislation. Particular attention will be given to the guarantee institution itself, the origin of energy from renewable sources, as a *sui generis* element for supporting the production of energy from renewable sources. In the comments *de lege ferenda*, the author wishes to draw attention to the growing potential of the institution of guarantees of origin, in particular as a document confirming the environmental footprint. The author wishes to point out that the institution of guarantees of origin is a document that not only allows the environmental effect to be confirmed by reducing the so-called “Carbon footprint”, but also a potential element of support for producers of energy from renewable sources, which is not qualified as public aid.

Key words: energy from renewable sources, guarantee of the origin of energy from renewable sources, guarantees of origin, environmental footprint, carbon footprint

JEL: K23, K32, L90

Dagmara Dragan, Wojciech Modzelewski, **Regulatory challenges in the use of renewable gases**

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- I. Introduction
- II. Current use of renewable gases
- III. Polish regulations in the field of renewable gases
- IV. The future of renewable gases and regulatory challenges
- V. Conclusion

Summary: Renewable gases gradually appear on the European energy market as possible alternatives to natural gas. Renewable gases include biogas, biomethane and hydrogen as well as synthetic gas. The extensive use of renewable gases in the future and their important role, not only in covering the energy demands in the European Union but also in terms of their impact on the climate and possible contribution to achieving the Paris Agreement objectives, are very clearly emphasized. The production, supply or distribution of renewable gas with a gas network are areas that must be regulated at least to a minimum extent. European legislators should also implement appropriate incentives for the production and use of these gases, such as the use of a green certificate system, tax exemptions, preferential tariffs for access to the network or co-financing, in particular for innovative projects. This article analyzes current regulations in this area and presents proposals that can be implemented when the renewable gases market becomes more developed.

Key words: renewable gases, biogas, biomethane, hydrogen

JEL: K23

Marek Stolorz, **Railway service facilities and services provided to rail carriers in the activity of energy companies**

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- I. Introduction
- II. The concept of a service facility in European and Polish law
- III. Access to a service facility
- IV. Documentation requirements
- V. Rights derived from tax law
- VI. Conclusion

Summary: The aim of this article is to present the situation of entities operating on the energy market that are owners, managers or operators of railway service facilities, a concept that emerged as a result of amendments to the Railway Transport Act in connection with the implementation of EU directives. Many of these facilities are related to energy, and as a result, these entities have also been affected by the need to comply with applicable regulations. They impose certain obligations, the most important of which is providing access to those facilities. The article presents these issues and indicates the divergences between the Polish legal order and EU law and the conclusions derived from these differences. The article also discusses tax allowances connected with the provision of service facilities, which are part of the railway infrastructure.

Key words: railway service facilities; railway re-fuelling facilities; traction current; railway transport act.

JEL: K230

Katarzyna Szlachetko, **The legal structure of a landscape audit**

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- II. The territorial scope and content of a landscape audit
- III. The drawing up of a landscape audit
- IV. The role of a landscape audit in the spatial planning system
- V. The legal nature of a landscape audit
- VI. Conclusions

Summary: The aim of this article is to present the legal structure of a landscape audit, which is a specialist institution for the protection of the landscape. A legal institution is a set of legal norms which are related in the material, formal or purposeful sense. Each institution is shaped by the characteristic connection of norms that create its legal structure, referred to as the 'guiding idea' determining the construction of the institution of law. The article presents the issues of a landscape audit from the perspective of its territorial scope, content, rules of drawing up, role in the spatial planning system and legal nature.

Key words: landscape audit; the legal structure of landscape audit; mean of landscape protection

JEL: K320

REPORTS

Report on the Second Congress of Local Energetics (Mariusz Szyrski)

Report on the Second Conference of Young Scientists of Administrative Law "Poviat and voivodship self-government – assessment of functioning and challenges for the future"
(Karolina Chról)