

Energy versus contemporary economic, social and geopolitical reality

(from the volume editors) Marzena Czarnecka Marcin Kraśniewski

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Piotr Mikusek, Legal regulations of carbon capture and storage (CCS) as a barrier to the decarbonisation of the national gas economy

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Summary: Carbon capture and storage (CCS) technology has the potential to be a support mechanism for the decarbonisation of domestic industry, especially energy-intensive sectors. However, in order to do so, it is necessary to properly shape the regulatory landscape for the application of the technology for the transport and storage of captured carbon dioxide. The shape of the regulatory landscape in this respect is determined both at the EU level (mainly by Directive 2009/31/EC on the geological storage of carbon dioxide i.e. the CCS Directive, and Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community i.e. the ETS Directive) and by national legislation (especially Poland's Energy Law and the Geological and Mining Law). The aim of this publication is to indicate the main regulatory barriers negatively influencing the potential for the development of CCS technology in Poland, as well as potential areas requiring intervention of the legislator in order to unblock the implementation of investments in carbon sequestration. It appears that there is currently space to postulate changes at the EU level, as well as to implement improvements in national legislation, due to the ongoing legislative transformation processes aimed at achieving a climate-neutral Europe.

Key words: carbon dioxide; carbon sequestration; regulatory barriers; energy transition; decarbonisation; energy-intensive industries

JEL: K12, K21, K32, K33

Piotr Dziubak, How to achieve emission reduction targets, while ensuring a level playing field?

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Summary: The article refers to the European Green Deal, an initiative of the European Commission whose goals are to make Europe the first climate neutral continent by 2050. The aim of this article is to present the role of aviation energy transition in contributing to the implementation of this initiative. In particular, the paper will assess the Draft Regulation of the European Parliament and of the Council on ensuring a level playing field for sustainable air transport. The discussion will also cover other elements of the Ready for 55 package that have a direct or indirect impact on this sector of the economy. The proposed EU provisions, regarding the decarbonisation of aviation, introduce tensions within the sector, both in the European Union and on other geographic markets and other sectors. In conclusion, the above analysis shows the need to involve competition authorities in this new transformation process, and to take into account the changes of reforming the competition protection system in the EU. As the second conclusion, transport entrepreneurs, infrastructure managers, carriers and fuel suppliers, must make decisions in the changing environment, leading to the energy transformation of the sector, and taking advantage of the emerging opportunities for cooperation, obtaining support and state aid.

Key words: level playing field; air transport; sustainable aviation fuels; European Green Deal; Fit for 55

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Summary: The article presents the main rules governing the settlement of energy efficiency obligations by an alternative fee after 2018. Due to the high prices of ‘white certificates’, in 2021 and 2022, entrepreneurs will seek to fulfill their energy savings obligations by alternative means, for example through the payment of an alternative fee. However, the Energy Efficiency Act from

2016 is imprecise and inconclusive on this aspect. This, in turns, causes serious practical doubts. It is a problem of great importance whether effective, even one-time purchase of white certificates, excludes the possibility of the submission of an alternative fee.

Key words: energy efficiency; white certificates; energy savings certificates; alternative fee; EED directive

JEL: K23

Borys Budka, Prosumer, virtual energy prosumer and collective prosumer of electricity – critical remarks

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Summary: This article aims to indicate the consequences, especially of a practical nature, that result from the introduction of new concepts into the Polish legal system – a prosumer, collective prosumer, and virtual prosumer of electricity. Furthermore, the paper evaluates Polish implementation of EU solutions regarding their effects in the energy law field as well as the consumer and competition protection system. The author is of the opinion that Polish regulations in their current wording may cause the risk of irregularities in the scope of contracts concluded between prosumers and energy companies, which may significantly slow down the growth of prosumers in the Polish market.

Key words: prosumer; European Union; power engineering; RES; competition

JEL: K12, K21, K32, K33

Grzegorz Zych, The phenomenon of refusal to agree to connect an installation to the grid in the light of Poland’s international obligations

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Summary: This article addresses the phenomenon of a significant increase in cases where power companies refuse requests to connect new renewable energy sources to the grid (rejection of grid connection), with a particular focus on the electricity market.

In the opinion of the author, the reason for this situation lies in the relevant legal regulations that, by their current form, contribute to the deepening of differences between entities that apply for a grid connection and those that actually manage to acquire the requested connection in terms of their rights and obligations under the connection procedure.

Key words: regulation; monopoly; energy; renewable energy sources; competition

JEL: K32, K21, K23

Michał Pater, The legal positions of energy investment contractors due to the increase in prices and demanding access to building materials

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Summary: The increase in the prices of energy, fuel and raw materials for production; rising inflation; the disproportion between growing demand and insufficient supply; as well as costs related to climate transformation, cause a significant increase in the prices of building materials necessary for the completion of energy investments. Existing serious disruptions in the supply

chain have a significant impact, also on the availability of materials, which may contribute to further price increases. Due to the problems related to the increase in prices and the limited availability of building materials, energy investment contractors face the dilemma of whether to continue the implementation of an unprofitable contract (risking a loss), or decide to discontinue its implementation (facing the consequences thereof). The continuation of an unprofitable contract raises the question of whether to attempt to revise its content to the extent that it makes it possible to offset the loss; or to limit oneself to pursuing claims in court after the contract is terminated. The article aims to present the possible paths of energy investment contractors in relation to the extended duration of a contract or the occurrence of losses, due to an increase in the prices of building materials or the unavailability of materials. The paper analyzes the issue of potential revisions to the contract by way of extending its implementation time and/or increasing the remuneration, as well as the issue of pursuing claims by the contractor in the event of failure to agree on a change in the contract. Also assessed is the issue of the contractor's defense against possible contractual penalties imposed for (resulting from the above-mentioned circumstances) the failure to perform/delayed performance of a given contract.

Key words: construction law; energy law; energy investments; contractor of energy investments; increase in prices of building materials; claims of a contractor for construction investments; *rebus sic statibus*; compensation claim; contract amendment; salary increase

JEL: K12, K21, K32, K33

Łukasz Dubiński, Special Nuclear Act and Atomic Law – the evaluation of selected legislative plans

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Summary: The article discusses legislative plans for the so-called special nuclear act and nuclear law. The analysis is carried out in terms of the legislator's assumption, whereby the amendment of the above-mentioned acts would translate into an improvement of proceedings regarding investments related to nuclear facilities. The overall assessment of the legislative changes being currently prepared is positive.

Key words: amendment; nuclear law; special nuclear act; investments; procedures

JEL: 3308

Bartłomiej Kupiec, A comparative legal analysis of energy clusters and the *Bürgerenergiegemeinschaft*

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Summary: The aim of this article is to present and compare Polish regulations on ‘energy clusters’ and the Austrian Bürgerenergiegemeinschaft. According to the energy and climate policy of the European Union, the energy transition process consists of the decarbonisation and the decentralization of the energy market. Citizen energy communities, as defined by Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market in electricity, are seen as key for achieving the above-mentioned principles. Energy clusters and energy cooperatives are a Polish solution to fulfil the indications of the above EU directives. They enable the participation of Polish citizens in the process of the generation and sale of energy, produced by the installation of Renewable Energy Systems (RES). In order to demonstrate whether the Polish energy corresponds to the concept of civic energy community and fulfils the idea of civic energy, not only the EU, Polish and Austrian legal acts defining the operation of the energy cluster and Bürgerenergiegemeinschaft were analyzed.

Key words: energy clusters; Bürgerenergiegemeinschaft; RES; civic energy

JEL: L93, Q42

REPORT

Report on the National Academic Conference on Energy Law “The role and importance of energy storage in the modern economy”, Katowice, April 28, 2021 (Bartosz Gołębiewski)

BOOK REVIEWS

Tina Soliman-Hunter, Marcin Kraśniewski, Jurgita Malinauskaite, Marzena Czarnecka (red.), The Routledge Handbook of Consumer Protection in Energy Markets, Routledge, Nowy Jork 2023 (Marzena Czarnecka)