

## THE ROLE OF FOREIGN AND INTERNATIONAL POLICY IN THE ENERGY AND CLIMATE POLICY OF THE EUROPEAN UNION

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**Aim:** In order to show the role of foreign and international policies in shaping the EU's energy and climate policies, the history of the European Communities has been traced through the prism of individual policies. Combining several of them (energy, climate, international and foreign) in this analysis is the result of viewing them in the context of causal effects.

**Methodology/approach:** The method of the paper was based on an in-depth analysis of the European Union source documents, published on websites and in documents of the European Commission and the European Parliament. The information gathered was extended through a library search and based on the library resources of several prominent Polish universities, as well as the Oxford Institute for Energy Studies. Moreover, the analysis included academic publications, websites of institutions, companies and organisations monitoring the course and changes of energy and climate policy.

**Limitations:** The referenced, quoted, analysed documents or packages aim to produce and regulate a common EU energy policy. However, this multitude of documents, directives and regulations does not seem to have helped the Union to demonstrate to the rest of the world that it has a coherent energy policy.

**Implications:** Energy and climate policy issues are analysed and described based on the historical experience of the European Union and its previous economic and, above all, political structures.

**Value:** Managing energy security in such a complex and diverse structure as the European Union requires experience and a sense of responsibility for the decisions taken. Responsibility for mistakes is often only political, which is why it is so important that any documents, decisions, directives or regulations are the work of responsible people, so energy policy should be managed like a potential crisis, based on consensus. Energy and climate policy issues are analysed and described based on the historical experience of the European Union and its previous economic and, above all, political structures.

**Keywords:** Foreign policy, international policy, energy and climate policy, management, European Union, consensus, diplomacy.

## 1. Introduction

The European Union's foreign and international policy is a set of policies, or rather a process, because there is no clear beginning or end, and it is difficult to identify binding or unquestionable rules and principles, not least because the policy is constantly being reconstructed. The EU can be seen and treated as a process (Bugdol, Szczepańska, 2016) because it operates in a continuous, often reliable, diverse and environmentally sustainable way, fulfilling a basic social need: ontological security in a broad sense (Kretek, 2021, 2016). By safeguarding this need for security, the Union takes into account and protects the geopolitical and geo-economic interests of this extremely heterogeneous structure, which is a collection of 27 states, diverse in every respect, and a myriad of peoples, or representatives of different nationalities, living in the EU Member States, but also in the Union's candidate states.

Politics is an activity associated with the struggle to gain and retain power, while also guiding the development of a particular structure or organisation (Malmon, Opoka, 1998). With regard to foreign policy and the shaping of international relations, it has undoubtedly been a success and even a political gain for the EU to elevate this political structure to the role of an international policy maker. After all, it is from this position that we can consider the EU's participation in meetings of groups of states representing the world's most developed economies, where the directions of multilateral dialogue are defined and political responses to global challenges or threats are formulated, and undoubtedly such is the energy and climate policy (Rola G7, 2020). Thus, any political, economic or social measures prepared in Brussels are transferred from the European level to the global level, increasing the chances of achieving the goal of climate neutrality by 2050. This idea has already become a necessity, as the people directly affected by climate change realise that achieving this goal is absolutely essential for the future and survival of Europe and even life on Earth (Climate Neutrality, 2022).

Thus, in order to demonstrate the role of foreign and international policy in shaping EU energy and climate policy, it is necessary to trace the history of the European Communities through the prism of individual policies. Indeed, the combination of several of them (energy, climate, international or foreign policy) in this analysis is the result of viewing them in the context of causal effects (Popkiewicz, Kardaś, Malinowski, 2019). All the more so because the term 'policy' usually refers to a more or less clearly defined set of ideas about what can be achieved in a particular field or a particular subject of study. And, furthermore, in academic language, the term 'policy' does not only mean adopted and implemented political programmes, but inaction or the maintenance and continuation of the *statu quo* is also policy (Świeboda, 2005).

## 2. European Coal and Steel Community (ECSC) – the start of EU energy policy

The impetus for the creation of any common policy on the European continent after the Second World War by the former Allies was provided by the aggressive distribution by the United States of America (USA) in war-ravaged Western Europe of primarily steel, so necessary for the reconstruction of the often bombed-out infrastructure, and in this group mainly engineering structures (bridges, viaducts, power stations, railways, roads, etc.). It was at this time, and on the basis of several years of experience, that the initiative of Robert Schuman, the French Foreign Minister in the 1950s, to establish a common market for coal and steel emerged. This idea was to encompass the two main branches of the destroyed economies: coal mining and the development of metallurgy based on hard coal, which at the same time satisfied 90% of the energy needs of the six signatory states of the emerging structure (France, the Federal Republic of Germany, Italy, Belgium, the Netherlands and Luxembourg). The newly-emerging structure was given the name European Coal and Steel Community (ECSC), in which each word – a component of the name - was of crucial importance, both politically and economically, as well as socially. After more than 70 years, it can be said that the Treaty of Paris signed on 18 April 1951, which entered into force on 25 July 1952, marked the beginning of a "common energy policy". The founders set out the overarching goal of this project, which was to be peace in Europe, but the most important action leading to unification in terms of needs was the allocation of resources for **joint research** related to the coal and steel industry, the instrument for which was the creation of the Research Fund for Coal and Steel. It is a fact that the Treaty of Paris lacked an explicit articulation of energy security issues, however, such a symptom was the indirect recognition in modernisation and restructuring matters - of coal and steel - as fundamental energy raw materials. Thus, this supranational trade agreement was intended to ensure the unhindered movement of both coal and steel between the signatories to the agreement.

It is extremely difficult to make any policy in such a diverse structure as was created at the time. The essential criteria for the community established at the time were common interests: the need to rebuild destroyed economies and states, immediate borders, independence from a single steel supplier (the USA) and diversification of supply sources for fossil and, at the same time, energy raw materials.

The determination of those who ruled the various countries of Western Europe at that time united around clearly defined objectives, and these required the establishment of the appropriate structures, forms, organisations or institutions necessary for safeguarding the basic needs and expectations of citizens, which resulted in the corresponding treaties. The first was the Treaty of Paris in 1951, and this document proved to be fundamental, as it laid down the first milestones which the determination of the "founding fathers" (Pioneers of the European Union, 2022) had enabled to be achieved.

### 3. European Atomic Energy Community (EURATOM/EAEC)

EURATOM, as an institution, was essential to achieving the objectives set at the founding of the ECSC, and may even have added value, since it was created in response to the need for a more stable source of energy than that derived from coal. Thus, as early as 1957, the Treaties of Rome recognised the atom as a source for ensuring Europe's energy independence, and nuclear power thus became an important step towards providing an integrating Europe with multiple sources of both thermal and electrical energy. In addition, the costs of building nuclear power plants were too high for individual states to make such investments alone, hence the possibility and necessity of cooperation in the field of energy diversification. The Treaty envisaged an even greater merger of the economies of the countries recovering from the Second World War, which were already united in the ECSC. The Treaty of Rome, through EURATOM, enabled the signatories not only to lay the foundations for the nuclear industry, but also to develop it, while providing guarantees in the peaceful use of this type of energy (Meadows, 1973). The members of the Community were also bound by a common policy on the supply of energy resources, which provided for the diversification of the EAEC's nuclear material supply routes in order to avoid dependence on a single source or supplier.

Among the key tasks assigned to this Community was to contribute to raising the standard of living in the Member States and developing relations with other countries (both partners in the project and other European countries), by laying down the conditions necessary for the establishment and rapid development of a nuclear industry. EURATOM, as a community, was already imposing specific roles on itself, important both for itself and for the future of the European continent. One of the roles of the assumed and pursued international policy was to ensure wide access to energy resources, consequently leading to the modernisation of technical processes and ensuring, through many other applications, the prosperity of the member nations.

The European Atomic Energy Community (EAEC), playing an extremely important role in the European Union's foreign and international energy and climate policy, has not merged with the EU, retaining a separate legal personality (Doliwa-Klepacki, 2003).

An important aspect of international politics on the European continent was the attitude of the Union of Soviet Socialist Republics, which was against the establishment of EURATOM. Wishing to prevent its creation, on 12 November 1956, the USSR took the initiative to create a coordinating pan-European atomic organisation to foster cooperation among member states for the peaceful use of atomic energy (Doliwa-Klepacki, 2003). However, this initiative was not welcomed by the West, pointing at the same time to the divergence of political interests on both sides of the "Iron Curtain".

#### **4. The foundations of a common energy policy for the European Communities based on a crisis**

In the Parliamentary Assembly of the European Economic Community, which has been active since 1952, there was an ongoing discussion about broadening the remit of the constituent states of the community (ECSC) in order to develop a coherent energy policy. In the following years, discussions took place in the changing parliamentary assembly until, in 1964, the Member States signed a protocol on the development of a common energy policy, thus expressing the hope of creating a common energy market. This document also mentioned the need to secure, stabilise and reduce the cost of the supply of energy raw materials, fair competition in the energy market and the creation of a general framework for a common policy in this area of the economy (Apostoł, 1995). On the basis of this document, the Commission (the EC's executive body), set up by the European Communities and operating since 1967, drew up the initial principles and guidelines of this policy, which were adopted two years later by the Council of the European Communities imposing an (Winiarski, Winiarska, 2006) obligation on Member States of the European Economic Community (EEC) to maintain minimum stocks of crude oil and/or petroleum products (Council Directive 68/414, 1968). However, no major undertakings were made in the following years to clarify and implement the above provisions. Only in January 1971 did the Council oblige the states to notify the Commission - each year - of investment concepts for oil, natural gas and electricity as well as plans for the importation of oil and natural gas (Doliwa-Klepcki, 2003).

**However, there was still a lack of decisive and concrete action in Western Europe and it was only in 1973, when Egypt and Syria attacked Israel and the USA supported Tel Aviv, that a crisis erupted which highlighted the need for decisive measures. The Arab countries responded to the actions of Europe and the USA with an "oil weapon", as they reduced oil production and imposed an embargo on countries supporting the Israelis, with the result that the price of oil "spiked" by almost 300%. The oil crisis that erupted then, and how it was dealt with, is still a useful lesson in geopolitics (Borejza, 2022).** As early as December 1973, the EC Council set up an Energy Committee to draft coherent energy policy documents and to verify their implementation in the Member States. A year later, the Commission presented a report to the Council entitled "Community energy policy objectives for 1985" (Directive 68/414, 1968) indicating the need to take decisive steps towards the adoption of a new energy policy strategy for the Communities. The final document obliges Member States to build up and store stocks of liquid fuels in three categories (automotive and aviation petrol, diesel, heating oil) for a period of 90 days. In addition, the following were assumed: a 15% reduction in consumption of the above, an increase in the use of nuclear energy, as well as in the use of energy of falling water [generated by pumped storage power stations], geothermal energy and natural gas, and a reduction in the use of oil as an energy source.

Thus, already at that time, attention was drawn to the problem of Western Europe's dependence on oil imports, setting the maximum level of energy imports at 50% and, if possible, reducing demand even to 40% (in 1973, the level was set at 63%) (Nehrebecki, 2008).

The joint action taken to resolve the energy impasse in which the Community countries found themselves at the time of and as a result of this crisis was similar to that taken in this situation at the OECD International Energy Agency, where there was already an obligation to share oil reserves with other countries. It is therefore possible to point to these measures as the foundations of a common energy policy (realised, however, only after successive energy crises).

## 5. Single European Act (SEA)

The 1970s and 1980s saw successive enlargements of the European Communities<sup>1</sup>, culminating in the entry into force of the SEA, which included a plan for the creation of an Internal Market. During this time, four-year research programmes were implemented between 1976-1979 and between 1980-1983 to study the development of new energy sources and ways to save the produced energy. A further four-year plan allocated almost ECU 3.8 billion (ECU, 2022) for research into increasing the efficiency of energy sources (Doliwa-Klepcki, 2003). Thus, the Communities had already at that time devoted a great deal of attention and resources to the development of a uniform energy policy, and with this experience and the results of research, the SEA was signed in Luxembourg on 17 February 1986 by the countries of the united "12". This document was accompanied by a Declaration, according to which the Community's action in the field of the environment must not interfere with the national policies of the Member States concerning the exploitation of energy resources, which in turn was to have the effect of stopping the predatory exploitation of the remaining energy resources, while at the same time it was emphasised that environmental action must not influence the energy policies of the signatories and jeopardise the energy security of the Member States.

The provisions in the SEA clearly indicated the need for a sustainable energy and climate policy, with mutual respect for the natural resources of the EC Member States. The implementation of a common energy policy was to be assisted by the introduction of new technologies in the energy sector (the THERMIE programme), which resulted in 1991 in the launch of the five-year "SAVE" programme, the aim of which was to reduce energy use per unit of gross national product by 20% within five years. On the other hand, on the basis of the Trans-European Networks (TEN) programme, which also includes the TEN-E or TEN-Energy networks, a number of projects for the construction of oil and gas transmission systems between

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<sup>1</sup> 1973 - first enlargement of the European Communities, accession of Denmark, Ireland and Great Britain; 1981 - second enlargement - accession of Greece; third enlargement - accession of Spain and Portugal.

EC countries, and later the EU (Biały, Janusz, Ruszel, Szurlej, 2018), have been implemented since then.

Furthermore, at that time, on the initiative of Dutch Prime Minister Ruud Lubbers, the European Energy Charter (CIRE, 2022) was being drafted, containing principles on which international cooperation in the energy sector should be based, taking into account the common interest in securing energy supply and sustainable economic development (Belohlavek, 2011). The Charter was signed on 17 December 1991 in Hague and the parties were: the European Community, the 37 European members of the Organisation for Economic Co-operation and Development (OECD) and the 12 former Soviet republics [the event took place during the break-up of the USSR, hence the Russian interest in possible cooperation with Western Europe] (Steinhoff, 2022). The aim of the event was:

- to create the right climate for energy access,
- to indicate the possibility [not yet at the time - the necessity] of accumulating reserves of it,
- to facilitate access to the energy market,
- to liberalise energy trade,
- to strengthen security in the use of energy,
- to protect the environment when using energy,
- to develop research and technology in the field of energy production and use; and
- to train staff in the field of energy (Doliwa-Klepacki, 2003).

## **6. Treaty on European Union (TEU)**

Recognising the need to ensure greater energy security for the members of the EC and, from then on, the EU, on the basis of the EU Treaty signed in Maastricht on 7 February 1992, a number of projects were launched in the field of energy in the broad sense. A number of long-term programmes were initiated, among them Alternative Energy (ALTENER), the aim of which was - and still is - to support research into the use of so-called alternative energy sources, i.e. the sun, wind, rivers. The programme promoted and financed innovative research and development of equipment using energy from alternative sources, including the construction of hydroelectric, solar and wind power plants (Zajączkowska, 2011). The programmes that were launched at the time not only helped the members - now the European Union - to pursue a sustainable energy policy, but also pointed to the need to protect the climate. The Altener programme, which continued after 1997 as Altener II, also set specific targets to be achieved by 2005, including: increasing the use of renewable energy sources in EU countries from 4% in 1991 to 8%, reducing carbon dioxide emissions by 180 Mt and increasing the share of

biofuels in the energy mix to 5% (Capstick, McCubbin, 1995). Efforts to diversify energy sources needed to be more decisive, because despite many initiatives, the share of external energy sources in the EC's global consumption was very high, amounting to 49% in 1999, compared to only 18% for the USA in the same year (Capstick, McCubbin, 1995).

After the establishment of the European Union, in 1994 the parties to the European Energy Charter signed a further-reaching document, the European Energy Charter Treaty, which entered into force in 1998, and was ratified by 38 countries, including 13 EU countries. This document regulated the general principles of energy trade, competition, energy transmission as well as technology transfer in this field (Doliwa-Klepacki, 2003).

Despite the initiatives taken, no comprehensive energy policy has been developed in the EU, only a common policy in some of its segments. International policy in this area was still imperfect. Non-committal guidelines and indicators were developed and their implementation was only subject to discussion. Often national interests were above the general good in the EU and this was due, among other things, to France blocking the activities of foreign energy companies in the EU market. Plans to liberalise the energy market were not realised until 2002, when it was decided at the Barcelona European Council to open the energy market to commercial gas and electricity suppliers, following the creation of a common market based on the freedoms of movement of goods, services, persons and capital (including the internal energy market) (Pazdej, 2022).

The fact that the prohibition of quantitative restrictions and measures with similar effects on trade also applies to the energy market is extremely important. Consequently, there has been an elimination of obstacles and quantitative restrictions to ensure the free exchange of energy, the principle of free movement of services has come into effect for energy companies providing services in Community countries, and standardisation has come into effect as a strategic instrument defining industrial and economic integration, which in the field of energy has extended to electricity generation and transmission, the oil sector, gas supply and the development of renewable energy sources (RES) (Pach-Gurgul, 2009).

## **7. The role, position and place of the Kyoto Protocol in international energy and climate policy**

To a large extent, the EU's energy policy was significantly influenced by the 1997 Kyoto conference, which concluded with the signing of a joint protocol in which the signatories agreed that there was a need to reduce greenhouse gas emissions by at least 5% compared to pre-1990 levels. The document came into force 8 years later, and even though it took so many years to take effect, it in a way accelerated change, as it caused significant adjustments in EU policy to pursue a common and, above all, responsible and already sustainable climate policy.

It is regrettable that the Kyoto Protocol did not cover all countries. The United States signed it during the Bill Clinton's tenure, together with an annex; however, the **US Senate refused to deal with its ratification**. On the other hand, **China and India signed the document but were not subject to specific emission limits** (Protokół z Kioto, 2022).

## 8. Energy security and the Lisbon Treaty

It should be remembered that for the first 40 years of the Communities' existence, energy issues were not covered by any treaty provisions. The first treaty to include a fragmentary element of energy security was the Maastricht Treaty of 1992, which initiated the need to build trans-European energy networks. On the other hand, the Lisbon Treaty of 2007 (ratified in Poland only in December 2009) gave energy the rank of a Community policy, which paved the way for a multifaceted construction of EU energy security.

In the backdrop of the war in Ukraine, which began in February 2022, it should be recalled that the need to take care of the Community's energy security policy was accelerated by the Russo-Ukrainian conflict of early 2006, which had already caused disruptions in gas supplies to the EU, with the consequent strengthening of the role of the energy policy position in the Union even before the Lisbon Treaty. Under that Treaty, energy becomes a sphere of shared competence between the Union and the Member States. The Council, on a proposal from the Commission, may decide – obviously in a spirit of solidarity between Member States – on measures appropriate to the economic situation, in particular in the event of serious difficulties in the supply of certain products, notably in the area of energy, with a view to promoting the interconnection of energy networks in the Member States.

## 9. Energy packages in the Green Papers – a European strategy for sustainable, competitive and secure energy

Another extremely important step on the road to achieving energy security in the EU, with the consequent impact on achieving the assumed climate neutrality – the Union's goal by 2050 – was to market and prioritise the documents created, such as directives or regulations. This was undoubtedly done by enshrining the Sustainable and Secure Energy Strategy as a "Green Paper" (Zielone Księgi, 2022) and this was done for **Sustainable, Competitive and Secure Energy** in March 2006 (Zielona Księga, 2022). The fact is that although 165 (Wykaz zielonych ksiąg, 2022) Green Papers have already been published, each of them is – in a sense – significant, as it provides the impetus for specific legislative work. In this case, the result or

perhaps the outcome of the work following this (seventy-sixth) Green Paper was the **Third Energy Package**<sup>2</sup> passed by the European Parliament in April 2009. It set out that the EU wanted to reduce greenhouse gas emissions by 20% by 2020, increase the share of RES in the energy balance to 20% and increase energy efficiency by 20% (Sanderski, 2022).

The third package contained "market" directives – directives indicating the definitive organisational and legal unbundling of the forms of activity in vertically integrated energy companies, increased the competence and independence of the market regulator, unbundled the transmission network operators (TSOs) organisationally and legally and created a framework for cooperation between the TSOs of the member states, and strengthened the rights of consumers as regards the quality of energy supply and freedom of choice of supplier (TPA). In addition, it also included "network" directives – directives indicating the need to strengthen the principles of cooperation and coordination between Community TSOs, concretised the framework for coordinated planning and technical development of transmission networks, defined cross-border trade and supply of electricity to retail customers, clarified the harmonisation of rules for setting transmission tariffs and allocating capacity, and network codes ("rules of procedure" for the legal and technical provision of transmission service) (Directive 2009/72/EC).

The sizeable package of directives and regulations that make up the so-called climate and energy package, and which were adopted by the European Parliament in 2009 (Pazdej, 2020), led the European Commission to implement the previous arrangements in the countries of underdeveloped Central and Eastern Europe, where the ten new members implemented the prescribed standards, orders, guidelines, and similar documents through their national parliaments into their legal systems.

In June 2019, the **Fourth Energy Package** was adopted, consisting of one directive (the directive on electricity (2019/944/EU) and three regulations: the regulation on electricity (2019/943/EU), the regulation on emergency preparedness (2019/941/EU) and the Regulation establishing the European Union Agency for the Cooperation of Energy Regulators (ACER) (2019/942/EU). The fourth package was announced 10 years after the third, containing implementing documents to the - sometimes too general and non-committal - provisions of the Lisbon Treaty or other previously adopted documents. This package introduced new rules for the electricity market to meet the needs of renewable energy and to attract investment in renewable energy sources (RES). In addition, incentives for consumers have been provided and a new limit has been introduced below which power plants are eligible to receive subsidies under the capacity mechanism. There is also an obligation on Member States to prepare contingency plans for electricity crises and increased powers for the Agency for the

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<sup>2</sup> The third package was preceded by two packages introduced in 1996 and 2003, which dealt with liberalisation in access to electricity and natural gas markets, as well as the right to free choice of energy supplier.

Cooperation of Energy Regulators (ACER) for cross-border regulatory cooperation where there is a risk of national and regional fragmentation (ACER, 2022).

The **Fifth Energy Package**, on the other hand, entitled "Delivering the European Green Deal", which was published on 14 July 2021, indicates the need to align the EU's energy targets with the new European climate goals for 2030 and 2050. The ongoing debate on the energy aspects and implementing acts of the Fifth Package (Internal Energy Market, 2022) has been halted by Russia's aggression against Ukraine (Jakóbiak, 2022). The EU needs to review its energy policy as supply chains have broken down and international agreements entered into are not being respected. And most dangerous of all - and difficult to foresee in terms of potential consequences - Europe has entered a period of global energy and, probably, economic and consequently social crisis.

## 10. On the road to the European Green Deal

Following the 2019 elections to the European Parliament, European Commission Vice-President Franz Timmermans submitted an original draft proposing a **European Green Deal (EGD) for the European Union and its citizens to EU Member States** (Komunikat Komisji do Parlamentu Europejskiego, 2022). It updated the Commission's commitment to addressing climate and environmental issues as the most important task facing the current generation. It is widely known and felt that the Earth's atmosphere is warming up and the climate is changing every year. Out of the eight million species currently living on our planet, one million are threatened with extinction, while forests and oceans are being polluted and devastated. In such dire natural circumstances, the EGD "is a new strategy for growth, aimed at transforming the European Union into a fair and prosperous society with a modern, resource-efficient and competitive economy assuming zero (net) greenhouse gas emissions by 2050" (Komunikat Komisji do Parlamentu Europejskiego, 2022). In order to achieve such an ambitious goal in terms of international policy, the document assumes certain dangers that may affect international relations, for "as long as many international partners do not share the same ambition as the EU, there is a risk of carbon leakage, either because production is transferred from the EU to other countries with lower ambition for emission reduction, or because EU products are replaced by more carbon-intensive imports" (Kuzior, Postrzednik-Lotko, Postrzednik, 2022) (Komunikat Komisji do Parlamentu Europejskiego, 2022). The document provides guidance for countries but also orders that "Member States will need to look more systematically at all policies and regulations," (Komunikat Komisji do Parlamentu Europejskiego, 2022, p. 17) and "Member States will coordinate their support to engage with partners to bridge the funding gap by mobilising private finance" (Komunikat Komisji do Parlamentu Europejskiego, 2022). And for the National Energy and Climate Plans, it is written

that "the Commission will ensure that they are fit for purpose and that Member States are implementing them effectively" (Komunikat Komisji do Parlamentu Europejskiego, 2022, p. 28). Therefore, in addition to obligations, both orders and the possibility of triggering sanctions against countries failing to implement the common energy policy and, obviously, climate policy to a certain extent are indicated. The document also states that "the Commission and the Member States must also ensure that policies and legislation are enforced and deliver effectively" (Komunikat Komisji do Parlamentu Europejskiego, 2022, p. 28). Based on previous experience, it was assumed that despite signing the document, there was a risk that some countries would not implement these ambitious plans. Therefore, it is necessary to prepare for potential sanctions for failing to fulfill the obligations set out in the document and adopted for implementation by individual governments.

Not all EU leaders endorsed the goal set out in the EGD assumptions, which is to make the Union a climate-neutral entity of states by 2050, in line with the Paris Agreement that all EU members have signed. Poland, at that stage, was not able to commit to this objective so the European Council returned to this issue, giving the member state time to "carry out in-depth consultations in their country", thus avoiding conflict or even confrontation, which could end in the failure of the whole project with the possible "veto" of one of the states. Consequently, in order to forge a consensus, the EU leaders considered it necessary to ensure energy security and respect the rights of Member States to decide on their own energy mixes and choose the most appropriate technologies (Ruszel, Regina-Zacharski, 2020). Such a message seems to allow individual governments to secure the interests of lobbyists in their countries (such as the miners' unions in Poland, or the gas lobby in Germany, and the nuclear lobby in France). Ultimately, EU leaders recognised that energy security must be ensured and the right of Member States to decide on their own energy mixes must be respected, giving them the opportunity to choose the most appropriate technologies (Kretek, 2018).

## **11. Just Transition Fund (JTF)**

In a period of negotiations and endless consultations on the EGD, the European Commission is putting forward another ambitious project – the Just Transition Fund (JTF). The importance of the regions in the EU has long been talked about but it seems that in the face of increasingly difficult intergovernmental negotiations, arrangements with regions may offer a better chance of reaching consensus. These are culturally and even politically more tightly knit societal structures which are able to reach agreement with the EC much more quickly than a state, especially when the matter concerns the funding of projects of regional importance. The criteria for the allocation of funds for the implementation of a transformation project in regions affected/required to restructure their industry as a result of a change in energy policy towards

zero-emissions are based on the reduction of industrial emissions in regions with high CO<sub>2</sub> intensity. The funds are to be allocated to the restructuring of industrial employment and the reduction of – up to and including the complete abandonment of coal and lignite mining, the abandonment of peat and bituminous shale production, which will probably have an impact on the level of economic development. Member States that have not yet committed [July 2022] to the goal of achieving climate neutrality by 2050 are to receive only 50% of the planned allocation of funds. With regard to the aforementioned regional policy, it should be emphasised that the level of EU co-funding of projects is determined according to the category of the region in which the projects are implemented<sup>3</sup>.

It seems that it will be extremely difficult for governments of Member States to devolve more competences to the regions, after all, at government level, some countries restrict the competences of local authorities, using EU funds as a tool to reward or punish compliant local authorities or those that do not toe the party line.

## **12. *Fit for 55* or ready for 55?**

The "Fit for 55" package is another package of legislative proposals, extremely difficult for some EU Member States to accept, aimed at revising and updating EU legislation and introducing new initiatives to bring EU legislation into line with the new climate goals (Jakubowska, Kompala, 2022). It will be possible to achieve the objectives and, above all, reduce CO<sub>2</sub> emissions by 2030 if, among other things, EU energy consumption is reduced by 9% and the share of RES in energy used in buildings is increased by at least 49% by 2030, with the condition that Member States are obliged to spend 100% (so far 50%) of revenues from the sale of emission packages (EU ETS, 2022), on the energy transition.

It seems that 55% emissions compared to 1990 is already not enough and this ambitious target should go further, hence the figure of 60; however, the war in Eastern Europe has stopped discussions around this proposal and even allowed EU members to return to the energy policy previously implemented, including a return to technology based on fossil fuels such as coal or nuclear power as energy resources with an important role to maintain the energy security of the population.

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<sup>3</sup> It is set at a maximum of 85% for less developed regions, 70% for transition regions and 50% for more developed regions.

### **13. European Emissions Trading System (EU ETS)**

More than 11,000 power plants and factories in the 27 EU Member States plus Iceland, Liechtenstein and Norway are covered by the scheme and it covers around 41% of the EU's greenhouse gas emissions. The implementation of a policy of trading and marketing these allowances is another challenge facing Brussels officials, determined to negotiate an agreement with politicians, which in turn is hampered by the fact that the funds obtained from the sale of allowances by states are revenue for their budgets, so they can be (and so are used by the governments of some EU countries [including Poland]) in discussions with the public to win their favour, especially in periods before elections. Hence, in many member states, it has been decided to specifically earmark revenues from the ETS (EU ETS, 2022). In Poland, for example, discussions are under way on a comprehensive regulation of the direct redirection of these funds for climate purposes. The sums involved are substantial, as the value of allowances sold by the government, after taking into account the solidarity mechanism, may amount to as much as EUR 46 billion in the years 2021-2030. In practice, this pool is redistributed among 16 countries in need of support, with Poland being the largest beneficiary (Saklawski, Wcisło-Karczewska, 2022). The way in which state-owned companies "earn" on allowances was presented by "Rzeczpospolita" newspaper. The newspaper cited the example of a coal-fired unit at the Jaworzno power station, which was not operating due to a breakdown, and for which the operator had already bought allowances and at a time when they were three times cheaper. State-owned Tauron bought back 691,000 allowances from its subsidiary and then sold them on the market. In its stock market report, the energy giant reported PLN 134.7 million in revenue from this (Tauron, 2022). The cited example shows that trading in allowances can be an object of speculation for governments and even a tool to help legitimise so-called creative accounting. Perhaps even for this reason, Poland's idea of introducing limits on the purchase of allowances, a transaction tax for financial entities or restricting access to the market, or the idea of implementing a lower and upper limit on the price of allowances will reduce the transparency of the system, allowing governments to pursue an unclear financial policy.

### **14. Taxonomy and sustainable investment**

Another extremely difficult to reach consensus between the political and business worlds is the regulation on the establishment of a framework to facilitate sustainable investments. This regulation of the European Parliament and of the Council (EU) (Regulation EU, 2020), which takes into account the Treaty on the Functioning of the European Union and in particular

its Art. 114 (Traktat o funkcjonowaniu Unii Europejskiej, 2022), can be described as a kind of implementing act, necessary to implement investments based on sustainable development principles, and defined in 1987 by a UN commission working under the direction of former Norwegian Prime Minister Gro Harlem Brundtland. The definition in the report *Our common future* states that "sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (Mytyk, 2021). And the EP and Council regulation referred to as **taxonomy** helps to implement the goal of sustainable development while counteracting *greenwashing* – the unsubstantiated claim by companies that their activities are eco-friendly.

The main task of the taxonomy is to help determine whether and to what extent a particular economic activity qualifies as environmentally sustainable. By using EU resources and funds, the EU taxonomy provides a suggestion to banks and institutions which investments are worth engaging in and which are worth and should be financed. Therefore, the taxonomy does not prohibit but prioritises pro-environmental investments as a result of which entities will be obliged to publish reports informing investors and clients how environmentally sustainable the business is (i.e. how green it is) and what financial investments have been made to achieve, for example, carbon neutrality.

Activities will be classified as environmentally sustainable if they make a significant contribution to (or do no harm to) one or more of the six environmental objectives:

1. climate change mitigation,
2. adaptation to climate change,
3. sustainable use and conservation of water and marine resources,
4. transition to a circular economy,
5. pollution prevention and control,
6. protection and restoration of biodiversity and ecosystems (Regulation (EU) 2020/852).

The above conditions stipulate that if a company's activity does not meet at least one of the above six objectives, it should be considered as not being in line with the EU taxonomy. It is also relevant here that if one of the objectives is not known or cannot be checked, the activity must also be deemed to be incompatible with the taxonomy (Płaniak, 2022). On the other hand, in order for an economic activity to qualify as environmentally sustainable, also in terms of the taxonomy, it must jointly meet the following four conditions:

1. it makes a significant contribution to at least one of the six environmental objectives;
2. it does not cause serious damage to any of the environmental objectives;
3. it is carried out in accordance with minimum safeguards;
4. meets technical eligibility criteria (Maruszkin, 2022).

By way of political negotiations, the legislator has provided for certain simplifications and introduced transitional periods for the introduction of full non-financial reporting in accordance with the Regulation, which will allow those subject to this obligation to prepare for the process and ensure that their non-financial reports meet the requirements of the legislator and are of value to the public (Płaniak, 2022).

## 15. Conclusions

All referenced, quoted, analysed documents or packages aim to produce and regulate a common EU energy policy. This multitude of documents, directives and regulations does not seem to have helped the Union to demonstrate to the rest of the world that it has a coherent energy policy. The Union is trying to represent a unified energy and climate policy to the outside world, which is undoubtedly a diplomatic success, as it is extremely difficult in such a diverse structure as the EU to reach a consensus securing the interests of all 27 members, especially at a time of war in Ukraine.

Any action taken by the political structures of the European Union, such as the Commission, Parliament or the Council, must be designed in such a way that it can be modified according to the international situation, such as the global crisis caused by the war in Eastern Europe. Therefore, documents must be prepared in such a way that there is always the possibility of working out changes by consensus to previously reached agreements. It seems that in the European Union and its structures, there is a great deal of flexibility in taking key decisions, so we are dealing with measures that have the appearance of crisis prevention, or in fact permanent crisis management. Therefore, it can be said that energy and climate policy in the EU is being implemented based on the highest standards of foreign and international policy conduct.

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