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The role of sectoral policies in the energy transition

Abstract: The objective of this paper will be firstly to indicate the significance of sectoral policies, as well as to explain the impact of cross-sectoral policies on the achievement of their goals. Next, these considerations will be related to the role of energy sectoral policies in the energy transition process, taking into account the impact of the cross-sectoral climate policy. The article is directed at highlighting the need to distinguish between sectoral and cross-sectoral policies and to identify the relation between these policies, which has special significance in relation to the energy sector. In order to realise the adopted objective, an administrative-legal research method will be applied, taking into account the perspective of EU law in connection with the significant impact of EU policies on the setting of national sectoral policies.

Keywords: sectoral policy, climate policy, energy policy, energy transition.

1. Public policy versus sectoral policy

In the increasingly complicated functioning of the energy sector, it is important to reflect scientifically on the role of sectoral policy in the face of one of the greatest modern challenges, which is the energy transition. This article will present an analysis of sectoral policy from the point of view of legal studies, although it is worth noting that it is also the subject of research interests of political¹ and economic² sciences.

¹ In political science, due to the rapid development of particular areas of the economy, a distinction in specialization is being considered for particular areas covered by sectoral policies, which are seen as a subject of influence of political factors, see: M. Ilnicki, T. Słomka, "Współczesny rozwój polityk sektorowych na przykładzie polityki transportowej jako pole dla badań politologicznych," *Spółeczeństwo i Polityka* 59, 2019, no. 2, pp. 14–20.

² In economic sciences, sectoral policy is also called interventionist or selective and is understood as a kind of industrial policy meaning that the state supports sectors of the economy which are preferred from the point of view of economic growth, see: H. Rechul, "Miejsce polityki energetycznej w polityce gospodarczej," *Wokół Energetyki* 7, 2004, no. 5.

When looking at the meaning of sectoral policy in the view of legal studies, the starting point should be the term public policy. In this respect, a distinction is made between *politics* and *policy*. This distinction can already be seen at the linguistic level,³ where *politics* means “the activities of the government or people who try to influence the way a country is governed”, but *policy* is “a plan of action or a set of rules agreed by a business, a political group or a government, saying what they will do in a particular situation.” The study of law understands the above distinction similarly, pointing out that politics is the pursuit of obtaining and maintaining power, while public policies are the actions in a given area to bring about the desired changes in it and, more broadly, it is the intervention of the state in a given sphere of socio-economic life.⁴ Other authors define public policies as “a skilful, comprehensive, enforceable, binding, legitimate, authoritative, deliberate and purposeful framework of and for interaction within which a multiplicity of policy decisions by political office-bearers can be made and various courses of action can be put into operation by public officials (administrative, technical and operational officials and workers) in order to realize the predetermined governmental aims and objectives as economically, efficiently and effectively as possible”⁵ as well as “a statement of goals and intentions with respect to a particular problem or set of problems.”⁶

Public policies are based on the setting of goals that public authorities (central and local government) intend to achieve by fulfilling public tasks. The competence to adopt public policies rests not only with the appropriate public administration bodies of the state, but also by the bodies of the United Nations and the institutions of the European Union, as further discussed in this article.⁷ The public policies that are issued cover a broad and diverse list of administrative acts regarding the form, content and entities empowered to issue them. The literature on the subject adopts the following criteria for classifying public policies:⁸ (i) the criterion of the relationship between acts of administrative policy and normative acts (acts of administrative policy constituting normative acts; acts of municipal policy determining the content and scope of regulation of a normative act; acts of administrative policy being unrelated to normative acts); (ii) the criterion of the obligatory or optional nature of the acts of administrative policy taken up;

³ Cf. *Politics, political, politician or policy?* [in:] Cambridge Dictionary <https://dictionary.cambridge.org/pl/grammar/british-grammar/politics-political-politician-or-policy> (accessed: 04.05.2023).

⁴ D. Sześciło, “Polityka publiczna i rola administracji w jej tworzeniu,” [in:] *Administracja i zarządzanie publiczne. Nauka o współczesnej administracji*, ed. D. Sześciło, Warszawa 2014, p. 57.

⁵ S.B.M. Marume, “Public Policy and Factors Influencing Public Policy,” *International Journal of Engineering Science Invention* 6, 2016, no. 5, p. 6 and 11.

⁶ W. Fox and I.H. Meyer, *Public Administration Dictionary*, Claremont 1995.

⁷ D. Sześciło, “Polityka publiczna i rola administracji w jej tworzeniu,” p. 58.

⁸ J. Korczak, “Akty polityki administracyjnej,” [in:] *Prawo administracyjne – zagadnienia ogólne i ustrojowe*, ed. J. Blicharz, P. Lisowski, Warszawa 2022, pp. 287–294.

(iii) the criterion of the direction of impact of acts of administrative policy (directed at the body constituting the act, other bodies, other local government entities); (iv) the criterion of the form of the act of administrative policy (programmes, plans, strategies, assumptions, concepts, studies),⁹ which are issued as resolutions, orders or decisions. Public policies apply to a particular area of activity of a public authority, i.e. an area which, because of its particular characteristics, requires highlighting and specialized analysis.¹⁰ They may be issued both by central government authorities¹¹ and by local government authorities.¹²

2. National sectoral policy

Public policies that cover a specified area of socio-economic life which requires the planning of detailed actions that reach out beyond the general framework of forecasting set out in long-term development strategies because of its specific nature are referred to as sectoral policies.¹³ The legal act defining the rules for issuing sector strategies is the Act on the Principles of Development Policy.¹⁴ According to the cited a.p.d.p., sectoral strategies are included within the term of “other development strategies” (other than medium-term national development strategy, voivodship development strategy, municipality development strategy or supra-local development strategy), which define the basic conditions, objectives and directions of development, related to the given sectors.¹⁵ Sectoral strategies may be issued for a period that is longer than 15 years and define, in particular, conclusions from the diagnosis of the social, economic and spatial situation, which are prepared for the needs of a given strategy, identified development potentials and problems, strategic development challenges, strategic goals, directions of intervention and activities intended to achieve the strategic goals, the scope of intervention, the expected results, the systems of implementation of the strategy and the assumptions of the financial framework, as well as potential

⁹ D. Sześciło, “Polityka publiczna i rola administracji w jej tworzeniu,” pp. 62–63.

¹⁰ J. Hausner, “Polityka a polityka publiczna,” *Zarządzanie Publiczne* 1, 2007, no. 1, pp. 43–44.

¹¹ An example is Resolution no. 16 of the Council of Ministers of 5 February 2013 on the adoption of the Long-term National Development Strategy. Poland 2030: The Third Wave of Modernity (*Monitor Polski* of 2013, item 121).

¹² An example is Resolution no. 6053/VI/22 of the Board of the Lower Silesian Voivodship of 25 October 2022 on the adoption of the “Energy Strategy of Lower Silesia – directions of support for the energy sector”.

¹³ K. Kokocińska, “Instytucjonalno-prawne podstawy współpracy samorządu województwa z rządem w zakresie polityki regionalnej,” *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 2008, no. 3, p. 54.

¹⁴ Act on the principles of the development policy of 6 December 2006 (Journal of Laws of 2023, item 225, as amended) hereinafter “a.p.d.p.”.

¹⁵ See: Article 9, para. 3 a.p.d.p.

sources of financing. In addition, they may contain other elements arising from international obligations, which is increasingly the case, in particular because of the process of the Europeanization of public administration.¹⁶ Government sectoral strategies are developed by the minister in charge, who then, after obtaining the opinion of the minister in charge of regional development, submits the draft strategy to the Council of Ministers. If the strategy is accepted, the Council of Ministers adopts it as a resolution, which is promulgated in the official journal, *Monitor Polski*. Sectoral strategies can also be issued by local government entities. They are developed at the level of voivodship government;¹⁷ county government¹⁸ and municipal government¹⁹ by the appropriate executive bodies and are successively subject to public consultation before they are adopted.²⁰

Energy,²¹ environment²² and transport²³ sectoral policies, among others, have been adopted in Poland. They programmed the objectives and the actions intended to achieve them. The objectives are expressed, for instance, as a percentage of renewable energy sources in the generation structure in particular years²⁴ or as a general direction – “developing the potential of the environment for the benefit of citizens and businesses”.²⁵ Usually, strategies set general and detailed goals, such as the main goal of “increasing accessibility of transport and improving safety for traffic participants and specific goals such as building an integrated, interconnected transport network for a competitive economy or changes in individual and collective mobility”.²⁶ As can be seen from the above, objectives are formulated as ideas, trends and directions for the development of a particular sector, while strategies also indicate actions as to how they are to be achieved.

¹⁶ B. Kowalczyk, *Deterytorializacja administracji publicznej w europejskiej przestrzeni prawnej*, Wrocław 2021, p. 226.

¹⁷ Article 41, para. 2, item 4 of the Act on voivodship government of 5 June 1998 (Journal of Laws of 2022, item 2094, as amended).

¹⁸ Article 32, para. 2, item 2a of the Act on county government of 5 June 1998 (Journal of Laws of 2022, item 1526, as amended).

¹⁹ Article 18, para. 2, item 6a of the Act on municipal government of 8 March 1990 (Journal of Laws of 2023, item 40, as amended).

²⁰ Article 6, para. 4–7 a.p.d.p.

²¹ Announcement of the Minister of Climate and Environment of 2 March 2021 on the national energy policy up to 2040 (*Monitor Polski* of 2021, item 264), hereinafter “PEP2040”.

²² Resolution no. 67 of the Council of Ministers of 16 July 2019 on the adoption of the “National Ecology Policy 2030 – Development Strategy in the area of environment and water economy” (*Monitor Polski* of 2019, item 794), hereinafter “PEP2030”.

²³ Resolution no. 105 of the Council of Ministers of 24 September 2019 on the adoption of the “Sustainable Transport Development Strategy until 2030” (*Monitor Polski* of 2019, item 1054), hereinafter “SRT2030”.

²⁴ See: illustration no. 8. Prognoza mocy osiągalnej netto źródeł wytwarzania energii elektrycznej wg technologii [in]: *PEP2040*, p. 192.

²⁵ PEP2030 objectives, p. 47.

²⁶ See: illustration no. 13 Cel i kierunki interwencji SRT2030 [in]: *SRT2030*, p. 65.

In this respect, the following actions can be identified: legislative (adoption or amendment of a law), financial (implementation of funding programmes), scientific (promotion of research) and other actions (e.g. establishment of sectoral agreements²⁷). It is also important to note that, while sectoral policies define national actions taken in a specific area of the economy, these policies must remain consistent with EU policies in this area, as discussed in the following part.

3. European Union sectoral policies

Sectoral policies are also an area of European Union activity. They are related to the division of competences between the EU and the Member States. As regards exclusive competence,²⁸ the EU is empowered to regulate a given area (including by issuing policies) with which the national legal system of the Member States must remain consistent. Whereas, in the area of shared competences between the EU and the Member States,²⁹ the EU does not have exclusivity and the Member States are not excluded from law-making in this area³⁰ (in which case, in accordance with the principle of subsidiarity, the EU only takes necessary action which cannot be sufficiently achieved by the Member States). By way of example, as an expression of the EU's exclusive competence can include the adopted EU regulation on the EU's fisheries policy³¹ and with regard to shared competence, e.g. the national energy policy,³² which must remain integrated with the many EU policies regulating the area of energy.³³ EU sectoral policies are otherwise referred to as infrastructure sectoral policies because of the significance of the sectors to which they relate and the rules of the business in this area. They are characterized by

²⁷ It is worth noting (in particular in relation to the following considerations) the numerous sectoral agreements entered into by energy transition stakeholders, such as the Agreement on cooperation for the development of the biogas and biomethane sectors of 23 November 2021 or Agreement on cooperation for the development of photovoltaic sector of 16 December 2021.

²⁸ Article 3 of the Treaty on the Functioning of the European Union, hereinafter "TFEU".

²⁹ Article 4 of TFEU.

³⁰ J. Kranz, "Unia Europejska – kilka uwag o fundamentach prawnych," *Krytyka Prawa* 1, 2018, no. 10, pp. 109–110.

³¹ Regulation (EU) no. 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) no. 1954/2003 and (EC) no. 1224/2009 and repealing Council Regulations (EC) no. 2371/2002 and (EC) no. 639/2004 and Council Decision 2004/585/EC.

³² PEP2040, p. 3.

³³ Polish energy policy shall comply, among others with: Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, the European Green Deal (COM/2019/640 final) and Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, Powering a climate-neutral economy: An EU Strategy for Energy System Integration (COM/2020/299 final).

the specific subject matter of the activity and the infrastructure required to implement it (e.g. energy, telecommunications, agriculture).³⁴ EU sectoral policies, like national policies, can take the form of legal acts and acts of soft law. The latter are usually issued in the form of communications and announce the adoption of legally binding acts.³⁵

The above shows that energy is an area of the economy which, due to its complexity, is covered by a multiplicity of not only regulations, but also sectoral policies. Further considerations will be directed towards indicating the role of sectoral policies in the energy transition process, which constitute an instrument generating change in the energy sector.

4. Sectoral policies in the energy transition process

There is no doubt that energy is an infrastructure sector, which is characterized by its complexity regarding the players involved and the related activities, and consequently the complexity of the regulatory system and policies encompassing the sector. The complication of this matter is multiplied by the EU's pursuit of the global objective of sustainable development,³⁶ which gives rise to this energy transition process. The basis for the adoption of this objective is the EU's involvement in tackling the scientifically evidenced climate crisis.³⁷ For this reason, the energy sector is undergoing an energy transition focused on reducing greenhouse gas emissions.³⁸

Sectoral policies play a significant role in conducting the energy transition process through the introduction of solutions intended to adapt and mitigate climate change, which are a result of the predominantly current energy sector model

³⁴ M. Majewska, *Prawne aspekty polityki transportowej Unii Europejskiej*, Białystok 2016, pp. 32–34.

³⁵ See I. Kulas, "Ocena spójności polityki ekologicznej i energetycznej państwa w warunkach gospodarki polskiej w świetle polityki zrównoważonego rozwoju," *Studia Ekonomiczne*, 2006, no. 38, p. 202. An example is the designation as a legislative objective in the annex to the European Green Deal (COM/2019/640 final), the adoption of the EU climate law, which was subsequently issued as a regulation of the European Parliament and of the Council (EU) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) no. 401/2009 and (EU) 2018/1999 ('European Climate Law') (Official Journal of the European Union L 243/1 of 2021).

³⁶ Article 11 TFEU.

³⁷ Intergovernmental Panel on Climate Change, Sixth Assessment Report, *Climate Change 2021, The Physical Science Basis*, Genewa 2021 https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (accessed: 04.05.2023).

³⁸ A. Albin, "Adaptacja do zmian klimatu jako zadanie publiczne," *Samorząd Terytorialny*, 2023, no. 1–2, p. 130.

of functioning. Just to reiterate, they are a forecasting instrument, by which long-term directions and objectives for the desired changes in the energy area are set, initiating the adoption of a law for making such objectives real.³⁹ Sectoral policies are an expression of the planning function of the bodies issuing them (appropriate bodies of state administration and bodies of international organizations), being a purposeful intervention in a given sector and creating the changes taking place in it in accordance with accepted public values.⁴⁰ The energy sector is currently shaped according to plans outlined by relevant sectoral policies, but also cross-sectoral policies. The former means policies strictly oriented towards planning changes in the energy sector, whereas the latter, do not directly apply to the energy sector, but due to their multidimensional nature, the objectives of these policies can be achieved with the participation of many sectors.

5. The role of climate policy as a cross-sectoral policy in the energy transition process

Undoubtedly, a cross-sectoral policy is climate policy.⁴¹ Due to its interdisciplinary nature,⁴² the climate is a subject of scientific research, political and legal action, and therefore of broadly defined activity in the socio-economic sphere. Climate protection is only possible by taking appropriate action in economic areas that have an impact on the state of the climate. A cross-sectoral global policy that sets out a desirable scenario of action for adapting and mitigating climate change is the United Nations (UN) Agenda 2030.⁴³ The main objective of the Agenda is a common move globally towards sustainable development through the achievement of the 17 sustainable development goals specified in it. The energy sector is also planned to contribute to this vision, with the priority, according to goal 7 of the Agenda, of ensuring “affordable and clean energy”. This goal is extended by detailed objectives including ensuring universal access to modern and affordable energy services, increasing the share of renewable energy sources (RES) in the energy mix, improving energy efficiency, increasing cooperation in clean

³⁹ M.A. Liwo, “Granice wpływu polityki na prawo i konsekwencje,” *Przegląd Prawa Publicznego*, 2022, no. 3, p. 21–22.

⁴⁰ R. Stasikowski, “O istocie funkcji planistycznej administracji publicznej,” *Przegląd Prawa Publicznego*, 2009, no. 5, p. 30.

⁴¹ A. Bator, A. Borek, K. Łuczak, A. Rybicka, P. Siwior, E. Wróblewski, *Adaptacja do zmian klimatu w unijnej i polskiej polityce klimatycznej oraz prawie klimatycznym*, Warszawa 2021, p. 39.

⁴² J. Peel and H.M. Osofsky, “Climate Change Litigation,” *Annual Review of Law and Social Science*, 2020, no. 16, p. 26.

⁴³ Resolution adopted by the General Assembly on 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1).

energy research and expanding the energy infrastructure. The 2030 Agenda has been adopted by all UN members⁴⁴ and, while not being a legally binding act, it reflects a global consensus on the need for urgent action on climate protection. This primarily means that the energy sector, as the most carbon-intensive sector of the economy, must be transformed to a sustainable model in which energy production does not cause environmental damage.

Confirmation of the significance of the 2030 Agenda as a policy with a broad impact on the global economy is the EU's European Green Deal policy,⁴⁵ which is also a cross-sectoral policy. In this policy, the European Union expressly indicates that it aims to implement Agenda 2030 and, with it, the sustainable development goals.⁴⁶ The European Green Deal takes the form of a communication, namely an unnamed act (*sui generis*),⁴⁷ which announces EU action (including the issuance of relevant legal acts) to achieve the goals set out in it. This policy does not refer to a single sector of the economy, but indicates that "the European Green Deal will accelerate and intensify the transition that is needed in all sectors". The determinant for the adoption of this policy is the introduction of solutions to climate and environmental challenges, seen by the EU as the most important for the modern world. Therefore, the European Union has adopted the goal of transforming the economy into a modern, resource-efficient, competitive, but above all climate-neutral economy (with zero net greenhouse gas emissions) by 2050. The European Green Deal policy, as indicated above, does not refer exclusively to the energy sector, but prioritizes this sector because of its highest carbon intensity and, consequently, the need to become involved as much as possible to achieve the zero-carbon objective. The challenges identified by this policy with respect to the energy sector are mainly the integration of climate goals into the energy policies of the Member States, the increase in the share of RES, the improvement in energy efficiency, the implementation of sustainable technologies, including energy storage, and the construction of smart infrastructure. The European Green Deal announced numerous legislative actions, among which the following can be mentioned as having been fulfilled: the adoption of the European Climate Law as a regulation;⁴⁸ the issuance of a plan to meet the EU target of 55% by 2030;⁴⁹ the

⁴⁴ The Sustainable Development Agenda, <https://www.un.org/sustainabledevelopment/development-agenda/> (accessed: 04.05.2023).

⁴⁵ European Green Deal (COM/2019/640 final).

⁴⁶ Z. Muras, M. Swora, "Tworzenie warunków do zrównoważonego rozwoju kraju," [in:] *Prawo energetyczne. Commentary*, ed. Z. Muras, M. Swora, Warszawa 2016, pp. 90–95.

⁴⁷ M. Cesarz, "Porządek prawny Unii Europejskiej," [in:] *Procesy integracyjne i dezintegracyjne w Europie*, eds. A. Paczeński and M. Klimowicz, Wrocław 2014, p. 192.

⁴⁸ European climate law (Official Journal of the European Union L 243/1 of 2021).

⁴⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Fit for 55": delivering the EU's 2030 Climate Target on the way to climate neutrality (COM/2021/550 final).

issuance of a legislative initiative for a directive on energy taxation;⁵⁰ the issuance of a strategy for offshore renewable energy⁵¹ and making a final assessment of national energy and climate plans.⁵² Therefore, it should be emphasized that the European Green Deal policy is of a cross-sectoral nature, but it significantly relates to the energy sector, the contribution of which to the process of achieving the objectives set out in the above policy means conducting the energy transition. The multiplicity and complexity of the challenges involved in this process mean that the energy sector's involvement in the pursuit of climate neutrality is most essential.

6. The role of energy sectoral policies in the energy transition process

6.1. Energy sectoral policies of the European Union

Cross-sectoral climate policies broadly outline a vision for achieving the objective of climate neutrality that they set, which depends on the involvement of many economic sectors not directly related to the subject of these policies (climate). Furthermore, they do not directly mention the action needed in particular sectors, but provide general directions, leaving it to the relevant sectoral policies to specify how to best achieve the adopted goal. Recalling previous considerations, the energy sector has a special role to play in achieving climate neutrality through actions referred to as the energy transition process. This special role of the energy sector arises from the fact that it is the most carbon-intensive sector, although it should be noted that the burden of involvement in the reduction process also falls on the industrial, transport and construction sectors.⁵³

At EU level, there are many energy sectoral policies which are relevant to the achievement of the climate goals. Consequently, this article will only review

⁵⁰ Proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast) (COM/2021/563 final).

⁵¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Strategy to harness the potential of offshore renewable energy for a climate neutral future (COM/2020/741 final).

⁵² National energy and climate plans (NECPs), *European Commission*, https://energy.ec.europa.eu/topics/energy-strategy/national-energy-and-climate-plans-necps_en (accessed: 04.05.2023).

⁵³ See: International Energy Association, Figure 5: Global CO₂ emissions by sector, 2019–2022 [in:] *CO₂ Emissions in 2022*, p. 9.

the current policies.⁵⁴ A significant energy sectoral policy is the strategy for energy system integration.⁵⁵ This policy points out at the beginning that the energy sector has a key role in achieving the goals set out in the European Green Deal. Energy system integration, which consists of “the coordinated planning and operation of the energy system as a whole, across multiple energy carriers, infrastructures, and consumption sectors”, is intended to decarbonize (exclude conventional sources from the energy mix), maximize the share of RES and multiply energy flows in energy processes, reducing energy losses. The model presented for the future operation of the energy system is intended to be flexible, using multiple zero-carbon energy sources in multiple processes that complement each other.⁵⁶ The policy of sector integration changes the current model of the energy system functioning from linear (one energy carrier finds one use) to integrated (each energy carrier will be multifunctional). The achievement of this vision is based on a circular energy flow, the electrification of end uses and the introduction of renewable energy. In this way, the energy system is to become zero-carbon and resource-efficient.

Another energy sector policy of key significance to the energy transition is the RepowerEU plan.⁵⁷ This plan is the EU’s response to the gas crisis caused by the Russian Federation. The issuance of the final version of the REPowerEU Plan was preceded by a Communication indicating the EU’s recommended actions in the energy sector to close the so-called “energy gap”, including: the introduction of regulated energy prices, increasing the filling of gas storage facilities, diversifying gas supply and increasing the share of renewable gases and RES. Whereas the analysed final plan specifies the EU’s priority goals to reduce dependence on Russian fossil fuels and to accelerate the energy transition. This plan sets out the goals in this respect, announcing that they will be achieved through appropriate legislative action. In addition, the REPowerEU is also a package of detailed plans: energy savings,⁵⁸ the structure of the electricity market,⁵⁹ the development

⁵⁴ Earlier energy sectoral policies include Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, A Clean Planet for all A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy (COM/2018/773 final).

⁵⁵ Powering a climate-neutral economy: An EU Strategy for Energy System Integration (COM/2020/299 final).

⁵⁶ A. Pinkas, “Ochrona klimatu determinantem integracji systemu energetycznego,” *Folia Iuridica Universitatis Wratislaviensis* 11, 2022, no. 2, p. 37 (accessed: 04.05.2023).

⁵⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions REPowerEU Plan (COM/2022/230 final).

⁵⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU “Save Energy” (COM/2022/240 final).

⁵⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Short-Term Energy

of solar energy⁶⁰ and the EU's external energy obligations.⁶¹ Within the headline objectives of the REPowerEU plan, the following main points can be identified: energy savings, diversification of supply, rapid substitution of fossil fuels by accelerating Europe's transition towards clean energy and a smart combination of investments and reforms. Energy savings are to be achieved through investments in RES, increasing energy efficiency, applying a reduced rate of VAT on highly efficient heating systems and building insulation and increasing the EU energy efficiency target by 2030 (by 13% from the current 9%). As for the diversification of supply, the EU envisages the introduction of an EU energy platform for the voluntary joint purchases of gas, LNG and hydrogen and the introduction of an IT mechanism and tools to improve the reservation of infrastructure for the import, transmission and storage of gas. Substituting fossil fuels while accelerating the energy transition means developing renewable energy, accelerating the use of hydrogen, increasing the production and use of biomethane, reducing fossil fuel consumption in the industrial and transport sectors and accelerating the permitting of and innovation in the renewable energy sector.⁶² This list of planned actions is not exhaustive, as they have been specified in detail in the individual directional policies issued as part of the REPowerEU package, including the particular importance of the recommendations of the European Commission to accelerate the procedure for issuing permits for RES investments.⁶³

6.2. Polish energy sectoral policies

A climate policy with a cross-sectoral dimension defining national participation in the implementation of international climate policy and the course of the energy transition process corresponding to the contemporary level of engagement in tackling the climate crisis, as also postulated in this article has not been adopted in Poland to date.⁶⁴ The literature emphasizes the need to coordinate various

Market Interventions and Long Term Improvements to the Electricity Market Design – a course for action (COM/2022/236 final).

⁶⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Solar Energy Strategy (COM/2022/221 final).

⁶¹ Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU external energy engagement in a changing world (JOIN/2022/23 final).

⁶² A. Pinkas, A. Sikorski, *The REPowerEU Plan – the European Commission's package of proposals to accelerate investment in renewable energy sources*, Sołtysiński Kawecki & Szlęzak legal firm, 21.06.2022 <https://skslegal.pl/en/the-repowereu-plan-the-european-commissions-package-of-proposals-to-accelerate-investment-in-renewable-energy-sources/> (accessed: 04.05.2023).

⁶³ Commission Recommendation on speeding up permit-granting procedures for renewable energy projects and facilitating Power Purchase Agreements (C(2022) 3219 final).

⁶⁴ It should be noted the Polish Climate Policy, Strategies for Reducing Greenhouse Gas Emissions in Poland until 2020, adopted by the Council of Ministers on 4 November 2003 that has

policies,⁶⁵ in particular related policies.⁶⁶ Meanwhile, Poland, as a member of the UN and the EU, is actively involved in the achievement of the goals of both Agenda 2030 and the European Green Deal, which means integrating these goals into the national legal order. Therefore, actions to achieve the climate and energy goals are in a fragmented system of sectoral policies.⁶⁷

As for the energy transition, two Polish energy policies, which are simultaneously in force but have been issued as the fulfilment of different obligations in this regard, are of particular importance.

As a result of the EU's adoption of the European Climate Law,⁶⁸ Member States were required to submit National Energy and Climate Plans (NECPs) to the European Commission. In these plans, each country has prepared a scenario of national actions within the energy transition process enabling the achievement of short-term climate goals (up to 2030). In the adopted NECP, Poland⁶⁹ has set overall goals of: a RES share of 21–23% in gross final energy consumption and 14% in transport;⁷⁰ a 23% increase in energy efficiency and a 7% reduction of CO₂ emissions in non-ETS sectors. These goals were made more specific through the setting of specific goals regarding energy efficiency, energy safety and the internal energy market. As an expression of the pursuit of these goals, it is worth mentioning, in particular, the planned: development of prosumerism, the diversification of gas supply and the increased use of biofuels, the development of energy grids, the implementation of offshore wind energy and many other actions which have been partially implemented or are in the process of implementation. The Polish NECP was adopted by the European Commission, which made recommendations

been in force to date, although it did not correspond to the extent of global engagement in tackling the climate crisis, <https://www.hvacr.pl/sites/default/files/article/attachment/06/1578/politykaklimatycznapolskido2020.pdf> (accessed: 04.05.2023). Subsequently, the Council of Ministers adopted the Strategic Adaptation Plan 2020 forecasting climate change adaptation measures up to 2020 with an outlook until 2030 on 29 October 2013, but, due to global climate efforts in recent years, this needs to be revised, https://bip.mos.gov.pl/g2/big/2013_10/0f31c35e8e490e9d496780f98d95defc.pdf (accessed: 04.05.2023).

⁶⁵ D. Russel, S. Castellari, A. Capriolo, S. Dessai, M. Hildén, A. Jensen, E. Karali, K. Mäkinen, H. Ørsted Nielsen, S. Weiland, R. den Uyl, J. Tröltzsch, "Policy Coordination for National Climate Change Adaptation in Europe: All Process, but Little Power," *Sustainability* 13, 2020, no. 12, p. 2.

⁶⁶ I. Boas, F. Biermann, N. Kanie, "Cross-sectoral strategies in global sustainability governance: towards a nexus approach," *International Environmental Agreements: Politics, Law and Economics*, 2016, no. 16, p. 452.

⁶⁷ J. Ciechanowicz-McLean, "Węzłowe problemy prawa ochrony klimatu," *Studia Prawno-ustrojowe*, 2017, no. 37, p. 12.

⁶⁸ Article 5(4) of European climate law (Official Journal of the European Union L 243/1 of 2021).

⁶⁹ Polish National Energy and Climate Plan 2021–2030, <https://www.gov.pl/web/klimat/krajowy-plan-na-rzecz-energii-i-klimatu> (accessed: 04.05.2023).

⁷⁰ M. Szyrski, "Ocena realizacji konstytucyjnej zasady pomocniczości w prawie odnawialnych źródeł energii," *Samorząd Terytorialny*, 2018, no. 5, p. 22.

to Poland to revise the plan in terms of among others:⁷¹ increasing the goal for the share of RES by 2030 to at least 25%; clarifying measures to diversify the energy system and reduce the level of energy dependency; providing a list of all measures supporting fossil fuels and a plan for phasing out such financing; and completing the plan to ensure coherence with air quality policy. Taking into account the above EU energy policies, first of all, greater ambition should be expected with regard to the real tackling of the climate crisis and increasing the share of RES.

The second Polish energy sectoral policy is the National Energy Policy up to 2040, which, in accordance with Article 15a of the Energy Law,⁷² the Council of Ministers adopts on the motion of the minister in charge of energy. The goal of the state energy policy is to ensure energy safety, increase the competitiveness of the economy, energy efficiency and protect the environment and climate.⁷³ Furthermore, the national energy policy shall be developed in accordance with the constitutional principle of sustainable development.⁷⁴ The measures set out in the national energy policy, despite having the nature of a forecast scenario for the development of the national energy market, are taken into account by distribution and transmission operators of gaseous fuels and energy in their development plans with regard to meeting the current and future demand for gaseous fuels or energy, the storage system operator in its development plan with regard to meeting the current and future demand for storage facility capacities, the President of the Energy Regulatory Office in defining the criteria for the evaluation of bids in the tender for building new electricity generation capacities or the implementation of projects reducing the demand for electricity and in regulating the activities of energy companies and the voivodship government in issuing an opinion on the draft municipal assumptions to the plan of the supply of heat, electricity and gaseous fuels. The current PEP2040 emphasizes compliance with the EU goal of achieving climate neutrality. This goal is to be achieved through energy transition, which, according to PEP2040, is to be based on three directions: a fair transition, a zero-carbon energy system and good air quality. The first goal means transition of mining regions, reduction of energy poverty and implementation of new RES-related branches of industry. The second goal indicates that Poland's leading energy technologies are to become offshore wind energy, nuclear energy and citizen energy. The third goal primarily means transition of heating and electrification of transport. PEP2040 contains detailed actions planned for the achievement of the individual goals and the relevant legal changes that have been announced, as well

⁷¹ Commission Recommendation of 18 June 2019 on the draft integrated National Energy and Climate Plan of Poland covering the period 2021–2030 (C/2019/4421).

⁷² Energy Law of 10 April 1997 (Journal of Laws of 2022, item 1385 as amended), hereinafter “e.l”.

⁷³ Article 13 e.l.

⁷⁴ Article 15 e.l. in connection with Article 5 of the Constitution of the Republic of Poland of 2 April 1997 (Polish Journal of Laws of 1997 no. 78 item. 483).

as the introduction of financing mechanisms. It is worth noting that the national energy policy is subject to revision every five years and, in this respect, it can be assumed that it will be justified to revise this policy with regard to the development of the hydrogen economy, which, in its current wording, PEP2040 refers to quite briefly, contrary to the global importance of this technology.

7. Conclusions

Within the term politics, it is important to distinguish between the meaning of politics and policy. The former refers to the exercise of power. The latter refers to public policies, namely a plan of action adopted by public authorities, expressed in the form of goals and directions of change for a given area of socio-economic life. Public policies are issued at the level of international organizations and by national (state and local government) bodies of public administration. They constitute a broad and varied – regarding their form, content and entities authorised to issue them – list of administrative acts. Public policies setting out a vision for the development of a single sector of the economy, separated as a result of the specific nature of its functioning or the multiplicity and complexity of its challenges, are referred to as sectoral policies. They should be distinguished from cross-sectoral policies, which affect numerous sectors not directly related to the subject of the policy. The cross-sectoral policy which currently has a key impact on the functioning of the energy sector is the climate policy. The objective of climate policy is to outline a comprehensive vision of the socio-economic changes that need to be made in order to reduce greenhouse gas emissions. Climate policy gives priority to climate protection and requires a conversion of the functioning of particular sectors of the economy to a sustainable model, which is achieved through the development of particular solutions adopted in legal acts. For instance, in relation to the energy transition, the European Green Deal sets out a target model for a climate-neutral EU economy and plans detailed measures in particular sectoral policies, which are then reflected in the norms adopted in legal acts. Meanwhile, planning changes in the energy sector has the nature of a fragmented system of sectoral policies which need to be coordinated and expressly emphasize the adaptation of energy transition goals to the goal of achieving climate neutrality. The multiplicity of sectoral policies programming changes in the energy sector results from the multiplicity of introducing new energy technologies. Due to the decentralisation of the energy system and the dispersion of the system into many cooperating sources, the objective of the sectoral policies is to outline the necessary measures for the development of energy infrastructure, the adjustment of grid operation and the introduction of technical and legal solutions. Therefore, energy sectoral policies, although much more detailed in relation to general development policy or climate policy, are much more complicated to realise in law.

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