



Ministry of Science
and Higher Education
Republic of Poland

The creation of the English-language version of these publications is financed in the framework of contract No. 768/P-DUN/2016 by the Ministry of Science and Higher Education committed to activities aimed at the promotion of education.

YEARBOOK
of ANTITRUST
and REGULATORY
STUDIES
www.yars.wz.uw.edu.pl

Peer-reviewed scientific periodical,
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The Energy Forum of Science and Economy Warsaw (Poland), 21–22 January 2016

The Energy Forum of Science and Economy took place on 21 and 22 January of 2015 in the registered office of the Łazarski University in Warsaw, thanks to the cooperation with Tauron Sprzedaż sp. z o.o.

The Forum constituted the first, of a foreseen cycle of meetings, meant to develop a common cooperation platform for the representatives of scientific institutions, power engineering enterprises, public administration bodies and practicing lawyers with experience in power engineering law. The Forum was organized by the following institutions: the Faculty of Law, Canon Law and Administration at the John Paul II Catholic University, the Faculty of Law and Administration at the Łazarski University, and the ‘Mercatus et Civis’ Foundation.

The subject matter of the meeting focused, first and foremost, on the principles of developing the common energy market within the European Union, which is constantly facing serious obstacles with respect to both politics and law.

As far as the political aspect is concerned, obstacles arise predominantly in developing unified objectives in terms of energy policy for all Member States. Considering the legal aspect, hindrances concern the need to specify transparent rules of conducting business operations within the internal energy market.

Further to the above, it appears logical that these issues arouse the interest not only of power engineering enterprises, which exist within a given political and legal reality, but also of scientific institutions within the domain of law, and in particular, public commercial law. The latter entities focus their activities not only on the analysis of the legal grounds for the operations in the energy sector, but also on their creative development, by means of assessing and formulating *de lege ferenda* conclusions.

Hence power engineering enterprises, as well as the law and related legal regulations in general, identify the very same objectives within the energy market. Unfortunately, so far the above has not necessarily been synonymous or concurrent with the objectives of the undertakings. The intention of the organizers of the conference had thus been to define a common platform for actions undertaken by power engineering enterprises, universities, and advanced educational institutions, which could cooperate by means of their organizational units to develop a new, better legal framework indispensable for efficient operations in the energy sector.

Among the issues that generated particular interest by the participants in the Forum were: competition within the common energy market, the policy of developing support

systems for renewable energy sources, imposing taxes upon economic operators in the power engineering industry, and legal aspects of using state-of-the-art technologies.

These issues, crucial for power engineering enterprises and often also for their lawyers, constitute a matter of concern for public administration also. They constituted the starting point for interesting discussions conducted during the Forum.

The Forum lasted for two days commencing with opening speeches delivered by representatives of the organizers: the Honorable Jerzy Stępień (Deputy Rector of the Łazarski University, retired President of the Polish Constitutional Tribunal), Professor Artur Kuś (Deputy Dean of the Faculty of Law and Administration, Łazarski University), Professor Marcin Trzebiatowski (John Paul II Catholic University of Lublin) who spoke on behalf of Professor Piotr Stanisław (Dean of the Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin) and Jarosław Król (President of the 'Mercatus et Civis' Foundation).

Professor Andrzej Stanisławek (Senator of the Senate of the Republic of Poland, President of the Senate Committee for National Economy and Innovation) spoke next, followed by Mr Marek Suski (MP, President of the Parliamentary Committee of Energy and State Treasury) who delivered a speech on behalf of the Sejm of the Republic of Poland. In his presentation, he stressed the need to increase the quality and cohesion of energy law and related regulations, in particular within the domain of rules governing renewable energy sources.

Andrzej J. Piortowski (Undersecretary of State in the Ministry of Energy) delivered a speech on behalf of the Council of Ministers of the Republic of Poland. He presented the government's key objectives in the energy sector and noted that the guidelines for the national power engineering policy should take into consideration the specificity of Poland's natural resources and the prerequisites of the energy 'mix' within the electricity generating area.

The first plenary session of the Forum, entitled: 'Common energy market. Legal Grounds', commenced with two introductory lectures. Professor Anna Walaszek-Pyziol (Faculty of Law and Administration, Jagiellonian University) delivered the first speech on: 'Legal grounds for the common energy market', which mainly addressed issues related to target-oriented development of the joint competences of the European Commission and Member States. The speaker clearly indicated the possibility of shaping national power engineering policy in an independent and autonomous manner, as well as choosing the relevant regulatory methods, provided they do not contradict EU rules.

Professor Anna Haładyj (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin) referred in her speech to the influence exerted upon Polish power engineering policy by the new climate agreement. In her opinion, the immediate consequence thereof is the need to change the structure of electricity output, including, above all, the increase in the proportion of renewable energy sources in the overall volume of the energy mix.

The following discussion panel moderated by Professor Bartłomiej Nowak (Kozłowski University) was devoted to the main issues of applying power engineering law within the context of building a common energy market. The panel gathered

a number of participants: Professor Anna Walaszek-Pyziół (Faculty of Law and Administration, Jagiellonian University), Professor Marek Wierzbowski (Faculty of Law and Administration, University of Warsaw), Professor Anna Haładyj and Dr. Michał Domagała (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin), Adam Janczak (EU Economic Department, Ministry of Foreign Affairs), Dr. Zdzisław Muras (Head of the Legal Department of Dispute Settlement, the Energy Regulatory Office).

The second session of the first day of the Forum, entitled: 'Competences in the Power Engineering Industry. Still a challenge or a reality in the energy market', was moderated by Dr. Małgorzata Ganczar (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin). It commenced with a lecture by Professor Marcin Trzebiatowski (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin) which focused on innovation constituting the background for competition among power engineering enterprises in Poland. The speaker noted that it is necessary to take into account the implementation of new technologies in the overall development plans of power engineering enterprises.

Ms Magdalena Vallebona (Institute of Political Studies, Polish Academy of Sciences) delivered the next speech entitled: 'Price as an element of the EU energy market and its regulation'. The presentation referred to the impact exerted by electricity prices upon the development trends of competition in the energy market. The speech also referred to the necessity to take social aspects into consideration when shaping prices.

Ms Marta Olszewska-Staniec (Faculty of Law and Administration, Cardinal Stefan Wyszyński University in Warsaw) delivered the subsequent speech entitled: 'Stranded cost compensation – the experience of Polish producers'. Ms Olszewska-Staniec discussed therein the influence of terminating long-term contracts upon competition in the electricity market, in particular with reference to prices for industrial customers.

The second part of the session was devoted to competition in the energy market. The discussion panel was moderated by Dr. Michał Domagała (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin). The panel was attended by: Professor Marcin Trzebiatowski (Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin), Ms Magdalena Vallebona (Institute of Political Studies, Polish Academy of Sciences), Professor Mirosław Pawełczyk (President of the Management Board the Polish Foundation of Competition Law and Sector-Specific Regulation), Professor Zbigniew Jurczyk (WSB Wrocław, Head of the Wrocław Delegation of UOKiK), Dr. Marcin Marszałek (Law Firm of Counsellors at Law, Barristers and Advocates Dziejcz, Kowalski, Kornasiewicz and Partners).

A number of issues was under consideration during the panel including: the consequences of the establishment of the Ministry of Energy and the influence of this fact upon the development of the power engineering policy in Poland. Importantly, the discussion covered also the issue of the identification of those areas of the energy market where competition exists and those where it does not. Furthermore, panel participants considered the possibility of price deregulation for households, and the

impact such decision might have upon the possible changes for the aforementioned group of customers.

The second day of the Forum commenced with a session devoted to the legal position of the customer on the energy market. The introductory lectures were delivered by Professor Andrzej Gorgol and Dr. Małgorzata Balwicka-Szczyrba. Professor Andrzej Gorgol (Faculty of Law and Administration, University of Zielona Góra) focused on energy consumption constituting an indicator of preferential excise duty for customers. Dr. Małgorzata Balwicka-Szczyrba (Faculty of Law and Administration, University of Gdańsk) discussed clauses excluding, or limiting the liability of power engineering entrepreneurs in customer contracts.

The subsequent speech by Krzysztof Podgórski (President of the Association of Consumer Ombudsmen, Consumer Ombudsmen of the City of Tarnów) focused on the rights of consumers within the energy market. Professor Aleksander Lipiński (Faculty of Law and Administration, University of Silesia in Katowice) delivered the last speech of the introductory session entitled: 'Decision on strategic localization of the pipeline network'.

The following discussion panel was moderated by Dr. Michał Domagała. It was attended by, *inter alia*: Professor Andrzej Gorgol, Małgorzata Rothert (Faculty of Law and Administration, University of Silesia, Vice-President of the National Council of Consumer Ombudsmen, Consumer Ombudsmen of the City of Warsaw), Dr. Małgorzata Balwicka-Szczyrba (Faculty of Law and Administration, University of Gdańsk), Kamil Pluskwa-Dąbrowski (President of the Consumer Federation), Krzysztof Podgórski (President of the Association of Consumer Ombudsmen, Consumer Ombudsmen of the City of Tarnów), and Adam Pietras (Head of the Legal Office of PGE Dystrybucja S.A.)

The discussion focused primarily on the issue of advantages and risks for consumers connected with their operations on the liberalized energy market. Speakers noted, among others, the need to protect consumers against unfair practices of some electricity dealers, cases which are most frequently referred to Consumer Ombudsmen, and activities the latter undertake to improve consumers' legal security. Attention was also drawn to the need to construct the tax system properly in relation to the final level of energy prices.

The final, fourth session of the Energy Forum of Science and Economy was devoted to new technologies in power generation and support systems for the generation of electricity from renewable energy sources. Introductory reports were delivered by Professor Krzysztof Bandyda (Faculty of Mechanics, Power Engineering and Aviation, Warsaw University of Technology) who spoke on: 'Challenges for the Polish Power Engineering Industry as the result of the transformation of the power generation structure'. Dr. Piotr Lissoń (Faculty of Law and Administration, Adam Mickiewicz University in Poznań) delivered the subsequent speech entitled: 'Differentiation of mechanisms and instruments supporting the generation of electricity from renewable energy sources vs. the type of installation criterion. Considerations with reference to the provisions of the Act on renewable energy sources'. The following speech by Dr Mariusz Szyrski (Faculty of Law and Administration, Cardinal Stefan Wyszyński

University) was entitled: 'Renewable energy in Poland – issues regarding law and administration'. Two further reports were delivered by Ms Róża Szawłowska (Warsaw School of Economics) who referred to the principles of supporting off-shore wind energy according to Polish law and related regulations, and Ms Magdalena Brodawka (University of Warsaw) who spoke on: 'State aid for the generation of energy from renewable sources according to the rulings of the Court of Justice of the European Union'.

After the introductory lectures, the final discussion panel was moderated by Dr. Piotr Lissoń with the participation of: Professor Krzysztof Bandyda (Faculty of Mechanics, Power Engineering and Aviation, Warsaw University of Technology), Dr. Mariusz Szyrski (Faculty of Law and Administration, Cardinal Stefan Wyszyński University), Michał Kornasiewicz (Law Firm of Counsellors at Law, Barristers and Advocates Dziezic Kowalski Kornasiewicz and Partners).

For the purpose of the round-up session, Professor Artur Kuś, speaking on behalf of the organizers, drew the attention of the audience to the fact that the objectives of the Forum had been reached. Hence it was decided that joint actions of universities, public administration, energy enterprises and energy law practitioners should primarily focus on the development of a more transparent framework for the purpose of consumer protection, and on creating a support system for renewable energy sources, taking into special consideration those aspects of such actions that are connected with taxation. Jarosław Król (President of the Management Board of 'Mercatus et Civis') also stressed their interrelation because the result of the above-mentioned actions would be a real increase in competition in the energy market, which would in turn bring about effects not only in economic terms, but also in the field of energy security.

Summing up, it should be noted that the Forum managed to gather the representatives of 15 research centers, central public administration offices, and several dozen power engineering enterprises and law firms.

The conference was organized in a partnership with: Tauron LLC, Center for Energy Market Information S.A., CIRE.PL, CH. Beck Publishing house, Novum.

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