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CLIMATE LAW IN EUROPEAN UNION LEGISLATION. DOES IT ALREADY EXIST?

PRAWO KLIMATYCZNE W PRAWODAWSTWIE UNII EUROPEJSKIEJ. CZY JUŻ ISTNIEJE?

In July 2021, Regulation (EU) 2021/1119 of the European Parliament and of the Council on the establishment of a framework for achieving climate neutrality entered into force. In this context, it is therefore important to determine whether a conceptual category such as ‘climate law’ can indeed be distinguished in EU legislation and, if so, what is the meaning of this notion? To this end, the notion of ‘European climate law’ is analysed. The dogmatic-legal method is primarily used as the research method in this study. A theoretical-legal method is also used to highlight certain themes related to legal institutions. The research is narrowed down to selected normative acts that are part of the EU legislation – the provisions of normative acts related to the functioning of the EU are analysed. The main conclusions in the paper focus on the application of the term ‘climate law’ in the selected EU regulations. This is juxtaposed with the category of the legal system *sensu stricto* and *sensu largo*. The analysis carried out confirms the thesis that Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 on the establishment of a framework for achieving climate neutrality should be classified as climate law *sensu largo*.

Keywords: Regulation (EU) 2021/1119; energy law; renewable energy source (RES); renewable energy; climate law

W lipcu 2021 r. weszło w życie rozporządzenie Parlamentu Europejskiego i Rady (UE) 2021/1119 w sprawie ustanowienia ram na potrzeby osiągnięcia neutralności klimatycznej. W tym kontekście ważne jest więc ustalenie, czy w prawodawstwie UE można rzeczywiście wyodrębnić taką kategorię pojęciową, jak „prawo klimatyczne”, a jeżeli tak, to jakie znaczenie ma to pojęcie? W tym celu przeprowadzono analizę pojęcia „europejskie prawo klimatyczne”. Jako metodę badawczą zastosowano w tym opracowaniu przede wszystkim metodę dogmatycznoprawną. Obok metody dogmatycznoprawnej zastosowano także metodę teoretycznoprawną dla uwypuklenia niektórych wątków związanych z instytucjami prawnymi. Badania zawężono do wybranych aktów normatywnych będących częścią prawodawstwa Unii Europejskiej: analizie poddano przepisy aktów normatywnych związanych z funkcjonowaniem UE. Główne wnioski w pracy oscylują wokół obszaru zastosowania pojęcia „prawo klimatyczne” w wybranym porządku prawnym UE. Zestawiono je z kategorią systemu prawa w znaczeniu *sensu stricto* i *sensu largo*. Przeprowadzona

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analiza potwierdziła tezę, że rozporządzenie Parlamentu Europejskiego i Rady (UE) 2021/1119 z 30 czerwca 2021 r. w sprawie ustanowienia ram na potrzeby osiągnięcia neutralności klimatycznej należy sklasyfikować jako prawo klimatyczne *sensu largo*.

Słowa kluczowe: rozporządzenie (UE) 2021/1119; prawo energetyczne; odnawialne źródła energii (OZE); prawo klimatyczne

I. INTRODUCTION

The term ‘climate’ is currently used in different senses. It has also been used for some time in the normative space, particularly in EU legislation. In this respect, the concept of ‘European climate law’ is also emerging. The subject of this paper is an axiological analysis of the concept of ‘European climate law’ in connection with the entry into force of Regulation (EU) 2021/1119 of the European Parliament and of the Council on the establishment of a framework for achieving climate neutrality. This paper will assess whether climate law is already a distinct category of law within EU legislation – and, if so, consider its nature. The issue is important insofar as so-called climate law seems to have developed ‘on the basis’ of environmental and nature conservation law.

The research conducted within this study is narrowed down to selected normative acts which are part of EU legislation. The dogmatic-legal method is primarily used as the research method. Based on this method, the provisions of normative acts related to the functioning of the EU are analysed. In addition to the dogmatic-legal method, the theoretical-legal method is also used to highlight certain themes related to legal institutions.

II. THE CONCEPT OF CLIMATE AND HOW IT RELATES TO EU LEGISLATION

As indicated in the introduction to this paper, the term climate is currently used in different senses. The legislator uses the terms ‘climate’, ‘environment’ and ‘nature’ in different meanings (often attaching the noun ‘protection’ to these terms). Thus, the following normative terms appear: environmental protection, nature protection, or climate protection. Let us focus here on the terms that are associated with the concept of ‘climate’.

The Cambridge dictionary states that the term ‘climate’ should be understood as ‘the general weather conditions usually found in a particular place: a hot/dry/harsh climate (The Mediterranean climate is good for growing citrus fruits and grapes; When we retire, we’re going to move to a warmer climate.)’.¹ Another dictionary, Merriam-Webster, states that the term climate can be

¹ <https://dictionary.cambridge.org/dictionary/english/climate>

understood as ‘the average course or condition of the weather at a place usually over a period of years as exhibited by temperature, wind velocity, and precipitation’ or as ‘the prevailing set of conditions (as of temperature and humidity) indoors’.² We can also find a definition according to which the term climate means ‘general weather conditions that are typical of it’.³ The concept of climate protection therefore refers in the above context to the protection of a *status quo*: weather-environmental conditions and the prevention of climatic anomalies.

Already at this point, it is worth pointing out that the concept of climate (without strict reference to the normative space) is sometimes equated with that of the environment. However, it is not possible to equate these concepts, since the concept of climate – as indicated above – refers to certain weather conditions specific to a given area and time, whereas the concept of environment refers to the existing fauna and flora in a given area.⁴

Let us briefly return to the legal acts that shaped the current legal regulation – and therefore had an axiological meaning. Primary law related to the creation of the EU (the Treaties) focused primarily on economic aspects, and climate and environmental issues were not a priority. The issues of climate and environmental protection actually appeared as a result of the work of the United Nations, and the most important document was the United Nations Framework Convention on Climate.⁵ The Convention introduces two important legal definitions: ‘adverse effects of climate change’ and ‘climate change’. The former was defined as changes in the physical environment or biota caused by climate change that have a significant adverse impact on the composition, resilience or performance of natural managed ecosystems or on the performance of socio-economic systems or on human health and well-being.

² <https://www.merriam-webster.com/dictionary/climate>

³ <https://www.collinsdictionary.com/dictionary/english/climate>

⁴ This kind of distinction (the use of different terms by the legislator) can be illustrated with the example of Polish legal regulation contained in the Environmental Protection Law (Act of 16 April 2004 on nature protection, Journal of Laws of the Republic of Poland 2004 No. 92 item 880 as amended). Article 2 of this Act states that nature protection, within the meaning of the Act, consists in the preservation, sustainable use and restoration of resources, formations and components of nature: naturally occurring plants, animals and fungi; plants, animals and fungi under species protection; animals leading a migratory lifestyle; natural habitats; habitats of endangered, rare and protected species of plants, animals and fungi; forms of living and inanimate nature and fossil remains of plants and animals; landscape; greenery in towns and villages; tree planting. The Polish Act also aptly indicates the ‘nature conservation objectives’, which include: maintenance of ecological processes and stability of ecosystems; preservation of biological diversity; preservation of geological and palaeontological heritage; ensuring the continuity of the existence of species of plants, animals and fungi, together with their habitats, by maintaining or restoring them to the proper state of protection; protection of landscape values, greenery in towns and villages and tree plantings; maintaining or restoring to the proper state of protection natural habitats, as well as other resources, formations and components of nature; shaping proper human attitudes towards nature through education, information and promotion in the field of nature protection. As can be seen, an important element indicated here is also the protection of landscape – as an important value for the environment.

⁵ United Nations Framework Convention on Climate concluded at New York on 9 May 1992.

The latter was defined as changes in climate caused directly or indirectly by human activities that change the composition of the Earth's atmosphere and that are distinguished from natural climate variability observed over comparable periods.

Another important document was the Kyoto Protocol.⁶ The Kyoto Protocol introduced three mechanisms to help national economies achieve their goals: emissions trading, the Clean Development Mechanism (CDM) and the joint implementation mechanism. The document entitled 'Phasing out Kyoto Protocol flexible mechanisms and shifting to the sustainable development mechanism'⁷ shows that over the years one can indicate the positive impact of legal regulations on local economic development, resulting from higher employment and greater reduction of poverty, and then reduction of pollution and promotion of renewable energy and access to energy. It was also mentioned that building knowledge and institutions to fight climate change around the CDM allowed for the creation of knowledge, institutions and infrastructure that can facilitate further actions in the field of climate change.

The concept of climate and the notion of climate protection entered legal circulation on a permanent basis primarily in connection with the climate summits (COPs), particularly evident after the climate summit labelled 'COP21', which was followed by the adoption of the Paris Agreements.⁸ It is stated that this agreement, in enhancing the implementation of the convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including:

- holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
- increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;
- making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

It is also important that the document makes reference to 'climate justice'.⁹ Among other things, it was pointed out that the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the

⁶ The United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement: A Summary 2020 (<https://fas.org/sgp/crs/misc/R46204.pdf>): 4.

⁷ Phasing out Kyoto Protocol flexible mechanisms and shifting to the sustainable development mechanism, Recommendations for countries at COP24 in Katowice, Poland, WWF 2018, http://awsassets.panda.org/downloads/wwf_briefing_paper_cop24_phasing_out_kyoto_protocol.pdf [accessed July 2023].

⁸ Paris Agreements, Official Journal of the EU L 282, 19.10.2016.

⁹ Ibid.: Introduction.

importance for some of the concept of ‘climate justice’, when taking action to address climate change.¹⁰

Bearing in mind the wording found in the content of the Paris Agreements, it can be concluded that the main objective is to provide global protection against possible climate change. And it is this climate change that is recognized as a negative phenomenon associated with the technological and economic progress of the world. Subsequent normative documents (including EU acts), refer precisely to this way of thinking, and thus provide for regulations that will make it possible to reduce the environmental impact of the economy (in percentage terms), such as reducing greenhouse gas emissions into the atmosphere.¹¹ This construction of regulations seems logical.¹²

A similar model of reasoning has been adopted in EU legislation. This is particularly evident in the Treaty on the Functioning of the European Union,¹³ which is the normative basis for the regulations and directives issued subsequently. Article 191 of the Treaty on the Functioning of the European Union, entitled ‘Environment’, states that Union policy on the environment shall contribute to pursuit of the following objectives: promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change. Note that there is explicit mention here of dealing with regional or worldwide environmental problems, and in particular combating climate change. The main focus is therefore on the process of climate change, so it is a matter of preventing or reducing the negative impact of the economy on the environment, which is defined in the Treaty as solving regional and global environmental problems. This is a very broad approach which can form the basis for further action at EU Member State level.

This was also reiterated in the Winter Package,¹⁴ in particular in the European Parliament and Council Regulation on the Governance of the Energy Union.¹⁵ In this document, the term ‘energy-climate’ is used extensively. As an example, recital 6 states that the European Council has endorsed a framework for the Union’s energy and climate policy until 2030, based on four headline targets at Union level: an economy-wide reduction in greenhouse gas emis-

¹⁰ Foerster et al. (2022): 48.

¹¹ Paris Agreements, p. 3, p. 5.

¹² Paris Agreements, p. 3, p. 5.

¹³ Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union – Consolidated version of the Treaty on the Functioning of the European Union – Protocols – Annexes – Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, Official Journal C 326.

¹⁴ Clean energy for all Europeans package. The package, adopted in 2019, will help to decarbonize the EU’s energy system in line with the European Green Deal objectives, https://energy.ec.europa.eu/topics/energy-strategy/clean-energy-all-europeans-package_en

¹⁵ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the governance of the Energy Union and climate action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council, L 328/1.

sions of at least 40%, an indicative energy efficiency improvement target of at least 27%, to be reviewed by 2020 with a view to revising this upwards to 30%, a share of at least 27% of renewable energy in the energy consumed in the Union and at least 15% of electricity interconnections. The concept of energy and climate policy therefore emerges here to describe the overall effort to reduce the environmental impact of the economy in the EU.

These concepts were subsequently incorporated into the European Parliament Council Regulation (EU) 2021/1119 of 30 June 2021 on establishing a framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law).¹⁶

From the above, a preliminary conclusion can be drawn, namely that the concept of climate in EU normative acts represents an axiological set of values referring to the state of the natural environment (having a global value), which we – as a global society – have decided to protect. Such actions are due to the fact that we are already aware of the extensive results of scientific research indicating that far-reaching interference by the economy with the environment will inevitably have a negative impact on the global climate and thus also cause irreversible changes to the environment.¹⁷

III. EU CLIMATE LAW REGIME?

As indicated above, 2021 saw the enactment of Regulation (EU) 2021/1119 of the European Parliament of the Council of 30 June 2021 on the establishment of a framework for achieving climate neutrality, which also includes the term ‘European climate law’ in its title. Let us consider the nature of this act. Can we already speak of the existence of a climate law in the EU or of a EU climate law system?

The act adopted by the European Parliament and the Council is specific in nature. In its title, it uses the term ‘European Climate Law’, which would indicate that the act will be a comprehensive legal regulation on climate protection within the European Union. Some authors even use the term ‘Climate Treaty’.¹⁸ Meanwhile, these terms seem to be used in a manner that is somewhat ‘over the top’.

The document in question consists of 14 editorial units (articles) and an extensive introductory part (40 recitals). According to Article 1 of the Regulation – this Regulation establishes a framework for the irreversible and gradual reduction of anthropogenic greenhouse gas emissions by sources and enhancement of removals by sinks regulated in Union law. The very wording of Article 1 indicates that the Regulation is fragmentary in nature and constitutes, as it

¹⁶ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing a framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law), L243/1.

¹⁷ See Post-COP 24 studies in Katowice.

¹⁸ Przyborowicz (2021): 39–53.

were, a form of ‘implementation’ of the Paris Agreements adopted some years earlier. This is explicitly expressed in the Regulation (in Article 1), where it is indicated that the Regulation sets out a binding objective of climate neutrality in the Union by 2050 in pursuit of the long-term temperature goal set out in point (a) of Article 2(1) of the Paris Agreement and provides a framework for achieving progress in pursuit of the global adaptation goal established in Article 7 of the Paris Agreement.

This act does not provide any legal definitions related to climate protection. In its content, we find mainly a procedural regulation related to the ‘arrival’ (the trajectory) at certain predetermined levels (defined in percentages – on the basis of milestones) and a legal regulation on how to verify and control the whole process.

Given the construction of the act in question and its content, a preliminary conclusion can be drawn: that the regulation refers in many places to existing environmental and nature conservation legislation adopted in the EU. An added value is the procedure related to percentages (milestones) and process control, as well as the activities of the European Scientific Advisory Board on Climate Change providing scientific background.¹⁹

How then is the term ‘European Climate Law’ to be understood? The term used by the legislator would suggest the existence of the current state, constituting a coherent systemic standard for the entire EU. The concept of a legal system can be understood as a system in which a set of norms derived from it can be identified and which can be interpreted by means of norms of interpretation of legal provisions.²⁰ The regulation in question hardly fulfils this postulate.²¹

A certain well-considered system of legal norms is therefore taking shape within EU legislation, which could be referred to as climate law. Council Regulation (EU) 2021/1119 of the European Parliament of 30 June 2021 on the establishment of a framework for achieving climate neutrality, cited here repeatedly, could form part of this system. When we look at the norms of EU law in this way, we can speak of a EU climate law *sensu largo*, which regulates not only the process itself related to the trajectory associated with reducing greenhouse gas emissions, but also the entire environment related to energy reform, the environment and nature.

Nils Meyer-Ohlendorf, in his study entitled *A European Climate Law – What Should It Look Like?*,²² states that the European Climate Law should include the following elements in order to match ambition with the intention to deliver the following: legally binding reductions targets; clearly quantified

¹⁹ The European Scientific Advisory Committee on Climate Change was established under Article 10a of Regulation (EC) No 401/2009 Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network, L 126/13.

²⁰ Leszczyński (2017): 23–39.

²¹ https://energy.ec.europa.eu/topics/energy-strategy/clean-energy-all-europeans-package_en [accessed February 2023].

²² Meyer-Ohlendorf (2019).

emission budgets for immediate reductions and ‘climate honesty’; EU targets for negative emissions; public participation and democracy; independent advisory bodies; financial flows; and policy mainstreaming. These objectives have been realized in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 on the establishment of a framework for achieving climate neutrality, however, as suggested earlier, they do not carry the changes of a comprehensive climate law regime. In another study, this author points out very correctly that ‘Although these elements of climate laws are already included in EU legislation, numerous elements of effective climate laws are still absent from the EU acquis. It falls short of what a growing number of countries and regions have adopted’.²³

A possible European climate law should provide some ‘normative cap’ for the protection of a broader set of values related to global economic activity. It is not a question of protecting local values (the local state of the environment), but of taking a global view. This would be a difficult legislative exercise, as it involves linking certain values at the level of many societies and communities, which, after all, often have different economic interests and cultural characteristics. Undoubtedly, climate protection is supposed to favour the protection of the *status quo* of the state of the environment and nature, otherwise the costs associated with reversing the cataclysms that may occur in the event of rapid climate change could be overwhelming.

With the above in mind, it seems that a more appropriate term than ‘European Climate Law’ (to cover the legal regulation introduced in 2021) seems to be ‘Climate Change Adoption Law’, understood as the process of adjustment to actual or expected climate and its effects.²⁴ With such a term, we are navigating the phenomenon of ‘adaptation’ to climate change. The term adaptation means here: adapting to life in a changing climate – involves adjusting to the actual or expected future climate. The goal is to reduce our risks from the harmful effects of climate change (like sea-level rise, more extreme weather events, or food insecurity). It also includes making the most of any potential beneficial opportunities associated with climate change (for example, longer growing seasons or increased yields in some regions).²⁵ However, such a notion raises a certain risk of the issue of climate change prevention being relegated to the background and the focus being primarily on adapting to new climatic conditions. However, one should agree with the postulate that the legislator should focus on reducing the impact of the economy on the climate globally as much as possible.

The central concept should continue to be that of climate neutrality, understood as the pursuit of activities in EU Member States that neutralize, or contribute to neutralizing, the impact of the economy on the climate (measured in thermal values expressed in degrees). Regulation (EU) 2021/1119 of the European Parliament and of the Council implementing this demand in

²³ Meyer-Ohlendorf, Fee Meinecke (2018).

²⁴ Nishimura (2022): 99–127.

²⁵ <https://climate.nasa.gov/solutions/adaptation-mitigation> [accessed February 2023].

Article 2(1) states that Union-wide greenhouse gas emissions and removals regulated in Union law shall be balanced within the Union at the latest by 2050, thus reducing emissions to net zero by that date, and the Union shall aim to achieve negative emissions thereafter.

IV. THE PLACE OF CLIMATE LAW IN THE LEGAL SYSTEM

Considering the scope of the climate law, one can ask about its place in the legal system. There is a connection with public law. There is, for example, environmental protection law, nature protection law, but also energy law. Climate-related law should first be classified as economic law, as a branch of administrative law. What is more, the view of Janina Ciechanowicz-McLean seems apt,²⁶ namely that this area combines environmental law with economic law by means of numerous common issues concerning those who conduct economic activity (especially entrepreneurs, but also the state) by means of legal and economic instruments, such as trade in greenhouse gas emission allowances, for example. Such a demand is also legitimate under the provisions of Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 on the establishment of a framework for achieving climate neutrality, the standards of which are addressed – through guidelines for EU Member States – to economic actors including state and private entities. This is particularly evident in this legal regulation, which is linked to energy law. Kaisa Huhta is right when he writes that ‘energy law as both as a legal discipline and as a normative system has three key roles in the energy transition’.²⁷ First, energy law can be facilitative, in which case it helps to spur the action needed in the energy transition. Second, the role of energy law can be restrictive, in which case it sets limits, constraints or even outright prohibitions in relation to the developments needed in the energy transition. Third, energy law can have a steering role in the energy transition, in which case it operates as a navigator that guides the developments that take place or should take place in the energy transition.²⁸ Administrative law thus becomes here a kind of regulator of social relations.²⁹

As mentioned earlier, a classification of EU climate law could be made with a view to the scope of such methodology – that is, in *sensu largo* and *sensu stricto* terms. Climate law *sensu largo* would appear as the totality of legal regulation related to both environmental and nature protection. In this sense, climate law would also be linked to energy law and other legal regulations that are related to the impact of the economy on the environment. In the *sensu largo* approach, the focus would be on legal regulations at different

²⁶ Ciechanowicz-McLean (2017): 11.

²⁷ Huhta (2022): 3.

²⁸ Huhta (2022): 3.

²⁹ See Schmidt-Aßmann (2004).

levels, which in combination would constitute a system of climate protection within the EU. A *sensu stricto* approach to climate law would require finding a legal regulation that addresses climate law in its entirety and regulates the issue in a detailed yet comprehensive manner. Bearing that in mind, it should be assumed that European climate law, as referred to, *inter alia*, in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 on the establishment of a framework for achieving climate neutrality, should be classified as climate law *sensu largo*. A legal regulation such as the one adopted in the EU in 2021 (from the point of view of the science of administrative law) does not constitute any new branch of law, moreover – as indicated above – it does not introduce new legal institutions. The role of this legal regulation is primarily to introduce new rules of conduct, but on the basis of already existing legal provisions related to environmental and nature protection.

On the sidelines of the issue of the meaning of climate law, it is worth referring to the question of its impact on human and civil rights. The literature recognizes that ‘the right to a safe climate can provide citizens with an instrument of institutionalized influence on states complementing the multi-level construction of climate law with an element of social participation in climate policy making and implementation’.³⁰ It is also put forward in the literature that linking climate law to the human rights protection system is necessary, as this can significantly contribute to improving the effectiveness of both climate law and human rights protection.³¹ Just a few years ago, linking climate rights to human rights might have been questionable, but this is not the case today. It is worth recalling here, for example, the judgment of the European Court of Human Rights of 24 January 2019 *Cordella and Others vs Italy*,³² in which the link between human rights and environmental protection was made. The jurisprudence seems to be moving in the direction of developing a new space related to human and civil rights: that of the right to clean air and the ‘safe climate’. Of course, this is just one of many court decisions. Court decisions of this kind have been made before. However, the quoted judgment of the European Court of Human Rights is of particular importance and is often referred to in the literature in cases of this kind.³³

V. CONCLUSIONS

In recent years, we have seen the development of legal regulation at EU level related to environmental and nature protection. The directions of this development are manifold and the legal regulation tends towards the trans-

³⁰ Stoczkiewicz (2021): 134

³¹ Stoczkiewicz (2021): 134

³² ECtHR judgment of 24 January 2019, 54414/13, *Cordella and Others vs Italy*, <https://www.echr.coe.int/hudoc-database> [accessed February 2023].

³³ See Kwiędacz-Palosz (2020): 30–36; Stoczkiewicz (2021); Warecka (2019).

formation of law related to carbon dioxide emissions into the atmosphere, energy efficiency, energy law, air protection and many others. This is how climate law is beginning to take shape in EU legislation. As indicated in this paper, legal regulation related to climate protection within the EU is not yet comprehensive. The legislator is primarily focusing on setting out the principles (the trajectory) associated with achieving climate neutrality – thus setting increasingly far-reaching percentages associated with reducing carbon dioxide emissions into the atmosphere. Such a legal regulation shows the direction of legislative activity in the EU – which is ultimately supposed to result in a reduction in, or full abandonment of, the consumption of fossil energy sources. It seems that the legal regulation related to the departure from the e-carbon policy is one of the main lines within which the legal regulation of climate protection in the EU is beginning to develop, as it were, ‘sideways’. The axiological values of such protection had already been defined much earlier, including within the framework of the Paris Agreements agreed at one of the recent climate summits. The likely scenario is that climate law will continue to be understood in the *largo sense*, as it will not itself be subject to separate legal regulation – as is the case now – but will be an outcome of the process of regulating primarily the energy market. This certainly does not mean that the issue of climate protection (or climate change adoption) is irrelevant to the EU legislator – but, as pointed out earlier, it is not a matter that lends itself to stand-alone legal regulation. It is linked to the existing nature and environmental protection values, which are already protected in law.

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