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Legal instruments of financial support for low-carbon energy in the legal system of Poland**

Abstract

In Polish law, legal instruments for financial support for low-carbon energy can be described and evaluated according to certain general criteria. First, it should be noted that low-carbon energy is not a self-contained goal of financial support. However, it can be concluded that Polish law provides for such a value protected by law, and consequently, it is eligible for financing. Furthermore, legal instruments of financial support for low-carbon energy take the form of both public and non-public funds. Moreover, these instruments are characteristics of both public and private law. However, the predominant legal instrument providing such support is a contract, although sometimes it is deeply rooted in public law. Alternatively it should be noted that the practical uses of instruments of financial support for low-carbon energy are complicated. This requires elaborate applications with numerous attachments, including documents and declarations. In addition, the process of granting such funds lasts a long time and is preceded by audits. Consequently, the instruments were not used to their fullest extent.

Keywords: low-carbon energy, energy policy, climate change, environmental protection law, legal instruments

1. Introduction

Issues related to the significance of energy policy and its references in specific normative solutions in Poland are relatively new. This problem has only been perceived for a few years from a wider perspective, encompassing not only local conditions but also European or global dimensions. Politicians and society have become aware that undertaking specific and relatively quick solutions are historically necessary.

The identification of energy problems in Poland and the effects of certain energy policies are not necessarily reflected in practice. As mentioned in other studies, Poland's energy policy is still based on coal, and coal mining is not connected only with environmental protection (or rather the lack thereof) but also with social and economic issues and sometimes explicitly with populism. Unfortunately, the hazards related to climatic change are also underestimated. Maslin lists potential examples of climate change, including shoreline changes, storms and floods, heat waves and droughts, human-induced changes, biodiversity, acidity, and agriculture.[1]

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[1] Maslin 2014, 91.

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Climate change is not just an environmental or sociological issue; it also is a moral and philosophical problem. In his encyclical letter 'Laudato si', Pope Francis directly indicates that humankind bears moral responsibility for climate change and the need to undertake protective measures.[2] A new, conclusively successful direction is proposed in theology, known as ecotheology or ecological theology, and deals with climate change.[3]

Climate change and its prevention or mitigation has been a subject of interest to philosophers. James recognized climate change as a fundamental problem of eco-philosophy (ecological philosophy[4]).[5] A similar treatment was administered by another researcher, Belshaw.[6]

Despite the broad treatment of climatic change and the need to prevent it, this process progresses at a relatively slow pace in Poland, with mental, political, and legal obstacles. This is determined by various factors, and their analysis exceeds the scope of this study. However, there is no doubt that assumptions about certain energy policies are reflected in specific legal solutions. Moreover, it provides tools for implementing certain energy policies using legal instruments, including financial instruments. This also, perhaps primarily, refers to low-carbon energy sources.

This study aims to analyze the issues related to legal instruments used by the legislature to provide financial support for low-carbon energy. In addition, this study analyzes the efficiency of such instruments from the perspective of goal accomplishment.

The predominant research method in this study was the formal dogmatic method. It consists of interpreting the legal norms in force. Regarding the law of the Republic of Poland, the predominant method of interpretation is linguistic, which is also referred to as grammatical. It analyzes the linguistic layer of a legal norm based on a common understanding of the meaning of specific words, at the same time considering the grammar of the Polish language. Other methods of interpretation, such as systemic and functional interpretations, were not used in this study. These methods of interpretation are considered when the results of linguistic interpretation are unsatisfactory or give rise to doubts. However, if linguistic interpretation leads to satisfactory results, other methods of determining the content of legal norms are redundant.

This study presents the legal norms regulating the financing of low-carbon energy. These norms are then discussed in terms of the elements that determine the availability of specific financial support. When any solution is subject for critical evaluation, *de lege ferenda* postulates will be made. This study does not use other legal examination methods, such as sociological and psychological examinations of law, and the economic interpretation of law is limited. This study focuses strictly on legal science.

[2] These issues are analyzed in detail in the monograph Miller (ed.) 2017.
[3] Ozorowski & Kierunku 1999, 252.
[4] The name is disputable, and this is not the focus here.
[5] James 2015, 134.
[6] Belshaw 2005.

2. Low-carbon energy as a goal of the Polish legislature

Low-carbon energy is an extra-legal issue; however, it is regulated by law. In exploring the meaning of this phrase in legal language, its role in Polish law should first be emphasized.[7]

Low-carbon energy is a goal that both energy policy and law should aim for. The underlying assumptions of low-carbon energy are indicated above, and they make it possible to assume that humans have an influence on climate change and, through their own behavior, can eliminate or at least reduce such change. Climate change is identified to be associated with the greenhouse effect, which, in turn, is attributed to the impact of human activity on the ozone layer. The assumptions underpinning the above-mentioned views indicate that humans are responsible for and can prevent climate change.

The prevention of climate change takes the form of both preventive and corrective measures. On the one hand, humans attempt to eliminate unfavorable changes; on the other hand, they want to prevent them. In this context, the analyzed problems are of a remarkably preventive nature. The essence of prevention is that humans reduce, minimize, or discontinue their effects on the ozone layer. This effect may be achieved by reducing or completely eliminating emissions. Such a result is possible because of a low-carbon energy policy, that is, a policy that causes zero or minimum emissions.

Thus, legislators should aim for low-carbon energy through various legal instruments. Therefore, it assumed the form of a self-contained value. In axiological terms, low-carbon energy is rooted, among other things, in the above-presented representative views. Hence, this goal can be attained by certain means, and the choice is made by the legislature. These may be, and are, actually, mostly financial means.

3. Notion of low-carbon energy in Polish law

First, the meaning of emissions in the Polish legal system should be explained. Emission has a normative definition, as given in Article 3 paragraph 4 of the Environmental Protection Law of April 27, 2001. This provision reads: *"For the purposes of this Act: […] (4) emission is understood as: (a) substances, (b) energy, such as heat, noise, vibrations, or electromagnetic fields emitted or released into the air, water, soil, or ground directly or indirectly as a result of human activity."*

As noted in the doctrine, this notion is an important anti-pollution environmental protection regulation and, as consequently, is significant for the scope of this protection.[8] Thus, the notion of emissions is confronted by pollution. It is emphasized that emissions are the release of substances or energy in a way and to an extent that is deemed acceptable (lawful), whereas pollution is also a type of emission; however, because of its effects, it is qualified as an emission that causes negative consequences that should not occur at all. Thus, such an emission is unacceptable.[9] Therefore, emissions are an acceptable environmental effect, whereas pollution is also an emission – only one that is unacceptable.

[7] See also Giecman & Szulga, 2008, 34.; Kaminska, Kaminskij & Kunenko 2013, 23.
[8] Bar, Górski, Jendrośka, Jerzmański & Pchalek 2014, 40.
[9] Ibid. 41.

Further studies should focus solely on the emissions. This implies that further studies should be limited to the acceptable, admissible, and lawful environmental effects. This deals with an admissible effect that is acceptable to the legislature. Thus, emissions are not about eliminating environmental impacts. This is only about ensuring that such an impact complies with the principles of sustainable development.[10] The principle of sustainable development enables the reconciliation of values that represent natural axiological conflicts. This idea was aptly interpreted by the Polish Constitutional Tribunal in the statement of reasons for the decree issued in case reference number K 23/05 on June 6, 2006, stipulating that *"The contested provisions are thus consistent with Article 5 and with Article 74 paragraphs 1 and 2 of the Constitution. Public authorities are first required to pursue a policy ensuring ecological security for present and future generations."* This phrase is typical of the determination of the tasks (policies) of the state; however, it does not directly give rise to the subjective rights of an individual. The term 'ecological security' must be understood as bringing the environment to a condition that allows safe staying in such an environment and using such an environment to enable human development. Environmental protection is an element of 'ecological security', however, the tasks of public authorities are wider as they also cover activities that improve the current condition of the environment and program its further development. The fundamental method to accomplish this objective is, pursuant to Article 5 of the Constitution, to be guided by the principle of sustainable development, which refers to international agreements, particularly those made at the conference in Rio de Janeiro in 1992 (cf. J. Boć, [in:] Constitutions of the Republic of Poland and the commentary to the Constitution of the Republic of Poland from 1997, ed. by J. Boć, Wrocław 1998, p. 24 et seq.). The principles of sustainable development comprise not only environmental protection or land management but also due care for social and civilization development related to the need to build relevant infrastructure required for – considering needs of civilization – the life of man and respective communities. Thus, the idea of sustainable development incorporates the need to consider different constitutional values and properly balance them.

Furthermore, this study aptly notes that the *"definition treats emission as an object and not an activity, so it is different from the meaning normally assigned to this term in informal language; emission is not the act of releasing substances or energy into the environment, but it denotes the very substances or energy released into the environment."*[11] Thus, emissions do not mean the act of releasing a substance or energy but rather the substance or energy that is released and, therefore, exists.

Considering the lack of a legal definition of low-carbon energy, I propose a definition designed for the needs of this study. Low-carbon energy refers to specific behaviors, actions, and activities as a result of which energy security is ensured, and at the same time, the release of substances or energy into the environment is reduced to the minimum. Energy security is identified as the absence of the risk of interruptions in the supply of energy and energy resources.[12] Energy security is an important element of

[10] Bukowski 2012.
[11] Bar, Górski, Jendrośka, Jerzmański, & Pchałek 2019, 41.
[12] Lubieńczuk 2014, 162.

national security.[13] In addition, this is considered social security because of the wide range of entities to which energy security refers.[14]

Hence, we are dealing with a situation in which, on the one hand, it is necessary to ensure energy security and, on the other, emissions must be reduced to the minimum.

Considering these aspects are not a one-off act, and it is not possible to do so in a single action. This process involves a sequence of activities distributed over time. In the legal language, these are referred to as transformations. This transformation has several advantages. First, as Stypuła aptly notes, it has ecological, ethical, and sociopolitical dimensions.[15] It must also be realized consistently and separately from current needs, particularly political ones. Long-term activities do not foster consistency and lead to interim compromise, which adversely affects transformation. In addition, it must incorporate all entities participating in energy security. Finally, adequate legal instruments must be considered to achieve these goals.

Thus, the legislature is responsible for identifying the instruments to achieve these goals and maintaining the consistency and continuity of transformation in an effort to achieve its long-term intentions.

4. Support mechanisms

To fulfill the European Union (EU) renewable energy goals described in the previous chapters, the following support mechanisms were introduced: (1) system of green certificates; (2) the auction support system, which is ultimately to replace the green certificate system; (3) the feed-in-tariff (FIT) and feed-in-premium (FIP) intended for producers of biogas and electricity from hydropower plants; (4) a special discount system; and (5) the obligation to purchase 'green energy' from installations with a total installed electrical capacity of <500 kW by obligated sellers (including energy companies and industrial customers) at a price equivalent to the average selling price of electricity on the competitive market in the previous quarter announced by the President of the Energy Regulation Office.[16]

These instruments were also introduced to constantly increase the installed capacity.

The above support systems are separate for electricity producers in renewable energy micro-, small renewable energy, and higher-power installations. According to the Act on Renewable Energy, a micro-installation is a renewable energy installation with a total installed electric power of not more than 50 kW, which is connected to a power grid with a rated voltage lower than 110 kV. This provision clearly defines the power range for prosumer installations, which can certainly be photovoltaic microinstallations or small wind turbines. A small installation is a renewable energy installation with a total installed electrical capacity higher than 50 kW and lower than 500 kW and is connected to a power grid with a rated voltage lower than 110 kV.

[13] Brzeziński, 2009, 33.
[14] Korzeniowski 2017, 145.
[15] Stypuła 2015, 299–325.
[16] Paska, Surma, Terlikowski & Zagrajek 2020, 4261.

Regarding the general instruments of the support system, it must be emphasized that since 2005, only the system of green certificates has been binding.[17] The auction system was introduced in 2015.[18] Currently, the two support systems for reticuloendothelial system (RES) installations >40 kW operate in parallel. The auction system is dedicated only to new RES installations. The strengths and weaknesses of both the systems have been widely discussed.[19]

The assumption of the green certificate system was quantitative support for the production of electricity from RES; that is, for each kilowatt hour of electricity generated from RES, there is a certificate of origin issued by the President of the Energy Regulatory Office. The price of green certificates is market-driven by demand for certificates, their supply, and substitution fees. This is specified by law, and the President of the Energy Regulatory Office announces the amount each year. The system does not provide a minimum price for certificates. Obtaining green certificates and selling them is an additional profit for electricity producers, in addition to sales profits or savings from energy consumption for their own needs.

According to the assumptions of the auction system, auctions are organized by the President of the Energy Regulatory Office, where producers of electricity from RES submit their bids.[20] The offer includes the amount of energy that the producer undertakes to deliver for over a period of 15 years and the unit price of the energy produced (price per MWh). The price provided in the offer may not exceed the reference price specified for a given type of RES installation in the Regulation of the Minister of Energy. Support is granted only to projects that declare the lowest price per unit of offered energy until the volume specified by the President the Energy Regulatory Office is exhausted. The winning auction price is subject for annual indexation with the average annual consumer price index for the previous year. In 2019, 12 RES auctions were held in the current state of the auction system.

In 2018, new mechanisms were introduced to support electricity production. The FIT and FIP systems are concerned only with installations using agricultural biogas, biogas obtained from landfills, a combination of the above, sewage treatment plants, and hydropower. For these types of RES installations with an installed capacity not exceeding 500 kW, guaranteed purchase prices for electricity (FIT) have been introduced, whereas for installations with a capacity of not less than 500 kW and less than 1 MW, there is a system of subsidies to the market price (FIP). Support in the FIT or FIP formula applies for 15 years, but not beyond December 21, 2035.

A discount system was introduced in 2016. The discount system initially covered only prosumers. They were defined as *"the end user who purchases electricity on the basis of a comprehensive contract and generates electricity only from renewable energy sources in a micro-installation, in order to use it for his own needs, not related to the conducted business activity."* However, since 2019, the definition of a renewable energy prosumer has been extended and allowed for settlements in the discount system, not only for households but also for entrepreneurs

[17] Brzezińska-Rawa & Goździewicz Biechońska 2014, 79–87.
[18] Gnatowska & Moryń-Kucharczyk 2019, 232–237.
[19] Trela & Dubel 2017; Adamczyk & Graczyk 2020; Jerzy, Lissoń, Pokrzywniak & Szambelańczyk 2016.
[20] Kitzing & Wendring 2016.

with a renewable energy micro-installation, that is, an installation with a total installed electricity capacity of no more than 50 kW, regardless of the scale of their activity.[21]

The discount system is based on the assumption that the energy generated in an RES micro-installation connected to the power grid of the distribution system operator (DSO) and not used for current needs is fed into the grid. Therefore, the power grid is a type of 'virtual energy storage.' When the generator does not produce electricity or its production is insufficient to satisfy the current demand, it is possible to withdraw up to 80% of the stored energy from the grid (for installations with a power of up to 10 kW) or 70% (for installations of more than 10 kW) but less than 40% (50 kW) at no additional cost. An entity wishing to become a prosumer must have a contract to purchase and distribute energy. Support in the discount system formula was provided for prosumers for 15 years, but not beyond December 31, 2035.[22]

5. Legal system of financing low-carbon energy in Poland by means of a contract

There is a rich choice of legal measures (legal instruments) through which goals can be achieved. The starting point was the provision of the Constitution of the Republic of Poland of April 2, 1997. The Polish Constitution presents a modern approach to environmental protection. The constitutional legislature perceives and addresses these problems. The Polish constitutional legislature also points out that environmental protection is the responsibility of public authorities.

The study assumes that public authorities can exercise their constitutional obligations on four levels. The first level is the making of law, which considers environmental protection issues. The second level involves performing certain organizational activities in the form of factual activities. The third level involves educational activities that fulfill these constitutional obligations. The last level involves financing environmental protection tasks, including tasks related to low-carbon energy.[23]

It must be emphasized that the possibility of protecting the environment without sufficient financial support is a myth. At present, the environment cannot be protected, even through attempts to adopt a low-carbon policy, only by means of legal norms, efficient organization, education, or awareness of citizenship without simultaneous financial support for such protection.

Environmental protection is financed by public funds; hence, its expenditure requires the design of a specific set of legal instruments.

First, the legislature makes laws allowing the use of public funds to finance various projects that foster low-carbon energy. Only clear and direct legal norms make public expenditure possible. It is also necessary to adopt relevant organizational solutions that will determine the provider of funds, type, and recipient of funds; the principles of providing them; their amounts; and the relevant process framework.

The system for financing environmental protection, including low-carbon energy, should source funds from the budget. However, it can also be a system of extra-budgetary resources. In Poland, the legislature assumed a very good solution regarding

[21] Sękulski & Żuchowski 2018, 99.
[22] Woźniak, Krysa & Dudek 2020.
[23] Rakoczy 2005, 78.; Bukowski, Czech, Karpus & Rakoczy 2013, 5.; Rakoczy 2009, 22–24.

the source of funds allocated to environmental protection, including low-carbon energy, that is, extra-budgetary funds. This means that money from different environmental use fees is not fed into the budget but to specialized entities that can spend it only on purposes defined by law.

In Polish law, such specialized entities are legal persons other than the State Treasury; thus, they can take part in legal transactions on their own and independently of the State Treasury. What is important for the analyzed issues is that they can enter into agreements and contracts and do not have to use solely administrative law-binding instruments.

The system provides two levels of support: central and regional (voivodeships). The national (central) level is represented by the National Fund for Environmental Protection and Water Management (i.e., legal person). Pursuant to Article 33 of the Civil Code, *"legal persons are the State Treasury and organizational units that are accorded legal personalities by specific regulations."* Thus, the State Treasury is not liable for a state-owned legal person who, in turn, is not liable for the State Treasury.

The regional (voivodeship) level is represented by regional funds for environmental protection and water management, which are self-governed legal persons independent of the State Treasury and any local authority unit. Each of the 16 voivodeships has a separate regional fund for environmental protection and water management, with competence limited to the territory of the voivodeship in which it operates.[24] The money available to the funds is public money.

A contract is a fundamental instrument by which funds dispose of public money to finance low-carbon energy. A catalogue of the types of contracts that such funds can conclude is a closed catalogue. This is defined in Article 411 paragraph 1 of the Environmental Protection Act of April 27 2001.[25] According to this provision, *"financing of the activities mentioned in Article 400a paragraph 1 and Article 410a paragraphs 4–6 from the resources of the National Fund and regional funds takes the form of interest-bearing loans, including loans for maintaining financial liquidity of projects co-financed by the EU; grants, including surcharges on banking loan interest; partial repayment of the principal amounts of banking loans; surcharges on interest or bond redemption price; and surcharges on lease instalments or other payments indicated in the lease contracts pursuant to Article 23a paragraph 1* of the act *of July 26, 1991, on personal income tax (Dz. U. [JL] of 2018 item 1509, as amended) and Article 17a paragraph 1* of the act *of February 15, 1992, on corporate income tax (Dz. U. [JL] of 2019 item 865, 1018, and 1309). Financing can also take the form of grant awards for environmental protection and water management activities not related to performing obligations by the government and local government officers."* In addition, the EPL indicates the tasks, investments, and projects for which expenditure from such funds is allowed.

[24] Compare in Italien Law – Marchello, Perrini & Serafini, 2007, 76.; Maglia 2009, 165.; Mariotti & Iannantuoni 2011, 23.
[25] Dz. U. (JL) 2019.1396 consolidated text of 2019.07.29, here the EPL.

6. Financing of low-carbon energy from the funds for environmental protection and water management

Interestingly, the goals that may be deemed related to low-carbon energy are given separate treatment in Polish law. It is significant that the legislature does not mention low-carbon energy as a separate goal but points to other goals (indirect goals) aiming at low-carbon energy.

The revenue of the National Fund includes but is not limited to receipts from the sale of assigned amount units (AAU). Other revenues of the National Fund are from the sale of emission allowances under the system of trading in greenhouse gas emission allowances. Receipts from the sale of AAU collected in a climate account are allocated to the financing of tasks related to support undertakings under programs and projects covered by the National Green Investment Scheme referred to in Article 22 paragraph 1 *of the act* of July 17, 2009, on the system to manage the emissions of greenhouse gases and other substances and the coverage of expenses on the service of the Advisory Board.

The resources of the National Fund other than revenues and proceeds from the sale of AAU accumulated in the climate account referred to in Article 23 paragraph 1 *of the act* of July 17, 2009, on the system to manage the emissions of greenhouse gases and other substances may also be allocated, with the approval from the Minister of Environment, to provide aid under an international cooperation scheme for development to countries not listed in Annex I of the United Nations Framework Convention on Climate Change formulated in New York on May 9, 1992,[26] making payments for international organizations, institutions, schemes, and funds, ensuring that financial mechanisms to accomplish the objectives of the Convention on Climate Change are in place. Aid is provided to support projects and investments related to the reduction or avoidance of greenhouse gas emissions, the absorption or sequestration of carbon dioxide (CO2), adaptation to climate change, and institutional reinforcement.[27] The resources of the National Fund, other than revenues and proceeds from the sale of AAU conducted by a state budget unit, are transferred to the respective units.

Resources from the National Fund are also allocated to indemnification for non-performance or improper performance of contracts of the concluded sale of AAU according to the *act* of July 17, 2009, on the system to manage the emissions of greenhouse gases and other substances.[28]

Polish law also treats financial instruments associated with renewable energy sources as instruments supporting low-carbon energy. Issues related to renewable energy sources are beyond the scope of this analysis; nevertheless, certain relationships can be clearly identified between renewable energy sources and the issues analyzed.

The study generally focuses on the relationship between renewable energy sources and energy policies.[29]

[26] Dz. U. (JL) of 1996 item 238.
[27] In Czech Law see Kindl & David 2007, 56.
[28] These issues are analyzed in detail, among other authors, by Urban, 2019, 991.; Gruszecki, 2019, 1192.
[29] See, for instance Szyrski 2017.

As aptly noted by Elżanowski and Sokołowski, *"in the Energy Policy of Poland until 2030, in the context of measures for the development of renewable energy sources, the following are indicated without limitation: maintaining support mechanisms for producers of electricity from renewable sources, example, the system of certificates of origin, maintenance of the obligation to gradually increase the share of biocomponents in transport fuel in order to achieve the intended targets, introduce additional support instruments encouraging a wider scale of generation of heat and cold from renewable energy sources, implementation of the directions of construction of agricultural biogas plants [...]."*[30] This connection must also be considered true. However, regulations concerning renewable energy sources indirectly address issues related to low-carbon energy. This relationship is simple. The higher the support for renewable energy sources, the better the low-carbon energy sources. Thus, the support for renewable energy sources is directly reflected in low-carbon energy sources. Green certificates play an important role as legal instruments that provide financial support for low-carbon energy. In the Polish legal system, energy certificates are subject to legal transactions, and a portion of the funds is allocated to low-carbon energy. The certificates of origin are also green certificates issued on the grounds of a separate act, the Polish Energy Law, which is discussed in a separate chapter.

7. Conclusions

It should be noted that the efficiency and effectiveness of financial support instruments for low-carbon energy are low. The instruments were not utilized to the fullest extent. There were several reasons for this observation.[31]

The primary reason for the inefficiency and ineffectiveness of the aforementioned instruments is bureaucratic obstacles preventing access to and use of such instruments. The first refers to obtaining money from funds for environmental protection and water management. Jendrośka and Bar view the problem from a slightly different angle and indicate that *"in practice, recently, the most efficient stimulus to observe the Community law has been the requirements for requesting the financing from the Community funds and the risk that the funds will not be allocated if any irregularities are found."*[32]

Entities allocate funds pursuant to applications that must satisfy several formal conditions. The applications are subject to an evaluation that, despite the efforts of the Polish legislature, has still been arbitrary and is often performed by individuals who are not familiar with these problems. Controlling the utilization of such funds is also difficult; it often becomes irrationally focused on completing the forms and columns instead of evaluating the real effects or their lack of.

Furthermore, the use of public funds in Poland is characterized by a high degree of suspicion regarding corruption-related motives because the allocation and continued use of such funds are subject to high risk.[33]

[30] Elżanowski & Sokołowski 2010, 133.
[31] See Koch 2007, 313.
[32] Jendrośka & Bar 2008, 67–68.
[33] In Spanish Law see Asunción, López & Garcia, 2015, 67.

Another drawback is approaching the money obtained from funds for environmental protection and water management and allocated to objectives related to the support of low-carbon energy as a necessary evil. To ensure the efficiency of these measures, it is insufficient to formally provide the possibility of obtaining money. It is also necessary to create a friendly, practical environment, including the attitudes of different entities that make decisions on the allocation of funds and evaluate their utilization, the axiology of activities, and state priorities. In Poland, the atmosphere is, at best, neutral but closer to reluctance rather than willingness. This is mostly associated with supporting a coal-based energy policy, which is truly competitive with low-carbon energy. A general axiological approach to environmental protection is relevant.

Therefore, energy certificates are useful. These functions serve as specific property rights. Thus, their demand and supply are determined by the market and reasonably supported by public instruments. However, in practice, resistance from energy companies reluctant to participate in legal transactions involving energy certificates has been observed.

Another drawback is the mentality that still views the policy supporting low-carbon energy as a necessity or order without noticing the values and benefits it provides and will provide. However, no legislator can help reconstruct this mentality. It is a question of responsibility, axiology, and consciousness.

In summary, it must be noted that legal instruments of financial support for low-carbon energy in Polish law can be described and evaluated according to certain general criteria. First, it should be noted that low-carbon energy is not a self-contained goal of financial support. However, as previously shown, it can be concluded that Polish law provides for such a value protected by law and, consequently, is eligible for financing.

Furthermore, legal instruments of financial support for low-carbon energy take the form of both public and non-public funds. Moreover, these instruments are characteristic of both public and private law.

However, the predominant legal instrument providing such support is a contract, although it is sometimes deeply rooted in public law.

Furthermore, it should be noted that the practical uses of instruments of financial support for low-carbon energy are complex. This requires elaborate applications with numerous attachments, including documents and declarations. In addition, the process of granting such funds lasts a long time and is preceded by audits. Consequently, the instruments were not used to their fullest extent.

However, the use of these funds has become increasingly popular. We can only hope that the procedure of awarding such funds will be deformalized and that they will become a popular means of putting low-carbon energy into effect.

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