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ANTI-CRISIS INSTRUMENTS OF THE EU'S CLIMATE LAW IN RESPONSE TO THE WAR IN UKRAINE

АНТИКРИЗОВІ ІНСТРУМЕНТИ КЛІМАТИЧНОГО ПРАВА ЄС У ВІДПОВІДЬ НА ВІЙНУ В УКРАЇНІ

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Abstract. *The relevance of the study is due to the transformation of the EU's climate policy in the context of the war in Ukraine and the energy security crisis caused by the geopolitical conditions. The methodology is based on a systematic and comparative analysis of EU acts, acts such as Regulation (EU) 2018/1999 and the integrated energy plan REPowerEU, which are functionally aligned with the "Fit for 55" package.*

The main results show that after 2022, the updated National Energy and Climate Plans play a key role, integrating the increased climate ambitions of "Fit for 55" and the energy security measures envisaged by REPowerEU. Of particular importance was the acceleration of the introduction of renewable energy, in particular offshore wind energy, as well as the reform of permitting procedures and the modernization of energy infrastructure. Among the EU member states, Germany, Denmark, the Netherlands and France occupy leading positions in the development of offshore wind energy, which is due to their experience in implementing large-scale offshore projects. At the same time, there are transitional contradictory solutions in the EU, including the temporary use of gas and nuclear technologies, reflected in the Taxonomy of Sustainable Finance.

Keywords: *international environmental law, Paris Agreement, EU law, climate policy, climate neutrality, "Fit for 55", REPowerEU, Regulation 2018/1999, NECP.*

Анотація. *Актуальність дослідження зумовлена трансформацією кліматичної політики ЄС в умовах війни в Україні та спричиненої нею енергетичної безпекової кризи. Російська збройна агресія призвела до переосмислення підходів до енергетичної стійкості, пришвидшивши застосування антикризових механізмів у рамках чинної інституційної моделі врядування. Метою дослідження є аналіз інструментів ЄС, спрямованих на забезпечення енергетичної безпеки та виконання кліматичних зобов'язань у нових геополітичних умовах. Методологія ґрунтується на системному та порівняльно-правовому аналізі актів ЄС, таких актів, як Регламент (ЄС) 2018/1999 та інтегрований енергетичний план REPowerEU, які функціонально узгоджуються з пакетом "Fit for 55".*

Основні результати свідчать, що після 2022 року ключову роль відіграють оновлені Національні енергетичні та кліматичні плани (NECPs), які інтегрують підвищені кліматичні амбіції "Fit for 55" та заходи енергетичної безпеки, передбачені REPowerEU. Особливого значення набуло прискорення впровадження відновлюваної енергетики, зокрема офшорної вітроенергетики, а також реформування дозвільних процедур і модернізація енергетичної інфраструктури. Серед держав-членів ЄС лідерські позиції у розвитку офшорної вітроенергетики посідають Німеччина, Данія, Нідерланди та Франція, що зумовлено їхнім

досвідом реалізації масштабних офшорних проєктів. Разом з тим, в ЄС спостерігаються перехідні суперечливі рішення, включаючи тимчасове використання газових та атомних технологій, відображене у Таксономії сталих фінансів.

Ключові слова: *міжнародне право навколишнього середовища, Паризька угода, право ЄС, кліматична політика, кліматична нейтральність, "Fit for 55", REPowerEU, Регламент 2018/1999, NECP.*

Introduction. The war in Ukraine has caused the largest energy security crisis in the EU in decades, which has jeopardized the stability of energy supplies, the functioning of the internal market and the fulfillment of climate commitments under the Paris Agreement. planning models for the application of complex anti-crisis measures integrated into the current governance system. In this context, the study of anti-crisis instruments of the EU's energy and climate policy is of particular importance, as it allows assessing the effectiveness of regulatory mechanisms, the Union's ability to ensure resilience in crisis conditions and the impact of the war on the strategic priorities of the European energy transition.

The purpose of the research is to analyse the institutional framework and crisis-response instruments of the EU's energy and climate policy adopted in the context of the war in Ukraine, as well as to assess their impact on the Union's energy security and decarbonisation trajectory.

Recent literature review. This paper is grounded in both EU legal documents and academic analyses that collectively elucidate the evolution of energy sector like a part of the climate governance after 2022. The Governance Regulation (EU) 2018/1999, the Commission's 2022 NECP Guidance, the REPowerEU Plan and the accelerated permitting measures form the institutional core of the policy framework, while the EU Offshore Renewable Energy Strategy, the 2022 NSEC Declaration and reports by WindEurope, WWF, CSD and the EBRD provide insight into the development of offshore renewables. The broader decarbonisation context is shaped by the "Fit for 55" package and recent studies on the EU Taxonomy.

Parallel to these policy sources, academic literature offers a conceptual foundation for interpreting current trends. Hedberg and Šipka (2022) emphasise the importance of coherent EU-level regulation for advancing the green transition; Medvedieva and Smirnova (2019) examine the centrality of the energy sector in enabling a low-carbon transition; Olesen and Vikkelsø (2024) identify the underuse of sufficiency measures in NECPs; Pfeifenberger et al. (2024) highlight the strategic significance of coordinated offshore planning; Klein et al. (2024) critically assess the inclusion of nuclear energy in the EU Taxonomy; and Medvedieva et al. (2024) demonstrate how the EU is adapting its legal instruments under geopolitical pressure.

Main research results. According to Annika Hedberg and Stefan Šipka, effectively responding to the growing climate challenges in the EU requires a consistent and well-aligned legislative framework that can ensure comparable standards across Member States. They emphasise that the EU's accumulated regulatory capacity and political weight position it as an influential actor capable of shaping climate governance both within Europe and internationally (Hedberg & Šipka, 2022).

Maryna Medvedieva and Kseniia Smyrnova argue that the energy sector represents both a major source of greenhouse gas emissions and a key avenue for addressing climate change through the expansion of renewable energy and improved energy efficiency. They emphasise that meeting the goals of the Paris Agreement requires a profound energy transition toward a low-carbon economic model (Medvedieva & Smyrnova, 2019).

In the aftermath of the energy crisis caused by Russia's full-scale aggression against Ukraine in 2022, the European Union has built a multi-level response system centered on the interaction of Regulation (EU) 2018/1999 on the governance of the Energy Union and climate action, the REPowerEU anti-crisis plan and the Fit for 55 structural package. This sequence reflects the logic of European energy and climate governance: first the institutional framework, then emergency measures and, finally, long-term structural reforms.

Regulation (EU) 2018/1999 on the governance of the Energy Union and climate action establishes the institutional architecture according to which the requirements for the development of

National Energy and Climate Plans (NECPs) are established. This EU act brings together the previous disparate climate and energy planning obligations, according to which Member States are obliged to prepare and regularly update national and energy plans lasting 10 years (Art.3) (European Union, 2018).

NECPs should include measures on decarbonization, energy efficiency, energy security, the internal energy market, as well as research and innovation, in particular national contributions to the achievement of the EU's overall renewable energy (RES) and energy efficiency targets. The list of mandatory sections of the NECP is defined in Annex I to Regulation (EU) 2018/1999.

The Regulation also establishes the requirement of early and effective consultation with the public (Art. 10) and regional coordination with other Member States (Art. 12), which must be reported to the NECP itself (Art. 3(2)). The procedure involves the submission of a draft plan, its evaluation by the European Commission and finalization. NECP updates are submitted in the middle of the ten-year cycle. The first plans were submitted in 2018-2019, and the updated ones were submitted in 2023-2024.

The European Commission provided important comments on the draft updated NECPs taking into account the new energy and security situation that has developed after the Russian invasion of Ukraine. In the 2022 guidelines, the Commission stressed that in accordance with the requirements of Regulation (EU) 2018/1999, Member States should strengthen regional cooperation, as it has become a key condition for energy resilience during the crisis (European Commission, 2022). Policy coordination, market integration, joint infrastructure planning and harmonization of energy security measures are seen by the Commission as necessary to ensure that Member States' plans are in line with the new realities.

According to Gunnar Boye Olesen and Ann Vikkelsø, "the overall conclusion is that although sufficiency measures are already present in the NECPs, but their potential remains largely unused; most policies influence consumption patterns rather than reduce consumption itself". The authors emphasise that this gap reveals substantial untapped opportunities to strengthen national climate strategies and enhance the effectiveness of EU-level climate action (Olesen & Vikkelsø, 2024).

Offshore wind energy is an important tool for the implementation of Regulation (EU) 2018/1999 on the governance of the Energy Union and Climate Action. The Regulation obliges countries to regional coordination in the preparation and updating of National Energy and Climate Plans (NECPs), especially for projects that are transboundary in nature (Art.10–12).

This applies to offshore wind projects, which require the harmonization of maritime spatial planning, joint development of network infrastructure, underwater interconnectors and environmental impact assessment procedures, which requires effective interstate cooperation is necessary. In practice, these requirements are implemented in particular through the North Sea Energy Cooperation, within which states such as Denmark, the Netherlands, Germany, Belgium and others coordinate offshore planning, auctions and network projects (NSEC, 2022). Similar mechanisms have been established in the Baltic Sea, where member states agree on offshore capacity development, wind potential studies and environmental procedures (European Commission, 2023).

Joint "hybrid" projects, such as "Kriegers Flak" between Denmark and Germany, demonstrate the implementation of the requirements of the Regulation on the Development of Integrated Offshore Infrastructure (European Commission, 2020). They simultaneously serve as production wind zones and cross-border interconnectors, which allows for the optimization of investments and strengthens the integration of the EU internal energy market. These mechanisms contribute to the formation of an integrated European energy space and the EU's progress towards climate neutrality.

According to the 2022 guidelines, the European Commission stressed that the key challenges remain the infrastructural integration of sea basins, the deficit of allocated maritime space, as well as too slow permitting procedures in a number of Member States. Therefore, after 2022, the priority shifted from the formulation of goals to the actual implementation and synchronization of national legislation.

Some Member States, in particular Germany, Denmark, the Netherlands, France, have made adjustments to the Maritime Spatial Plans, increasing the area for offshore wind farms, identifying

new “acceleration zones” and adapting environmental impact assessment procedures to the requirements of REPowerEU. For some Member States, this process has become a key institutional challenge, as the existing marine plans have proven incompatible with the EU’s ambitions for 2030 and 2040 (WWF, 2023).

Regional cooperation in the field of offshore wind energy in the Black Sea and the Adriatic has intensified since 2022 under the influence of the energy and security crisis and within the framework of REPowerEU policy. In the Black Sea, the development of offshore wind energy is at an early stage, but Bulgaria and Romania are already developing special laws and offshore spatial plans providing for the allocation of zones for future wind farms (CSD, 2022; OffshoreWind, 2024). Bulgaria became the first state in the region to promote a separate law on renewable energy in the maritime spaces, while Romania is working on a framework law on offshore wind (MOE Romania, 2023). The EU supports cooperation in the Black Sea basin through the “Common Maritime Agenda for the Black Sea” and funding for preparatory studies under REPowerEU, focusing on maritime spatial planning and network integration (European Commission, 2022).

In the Adriatic, cooperation is advancing faster due to more favorable security conditions and the availability of mature network infrastructure. Croatia and Italy are preparing joint approaches to auctions and network connections for floating-offshore projects, integrating offshore REs into their updated NECPs and maritime spatial plans (WindEurope, 2023). Albania and Montenegro receive support from the EU and the EBRD to assess the potential of deep-sea wind farms that meets the RED III and REPowerEU requirements for accelerated deployment of RES (EBRD, 2023).

Overall, the Black Sea is showing a gradual formation of the legislative framework, while the Adriatic is moving towards the coordination of joint auctions and integrated grid solutions. Both regions are identified by the EU as promising areas for the development of floating offshore wind, which is consistent with the updated energy security and decarbonization goals for 2030 and 2050 (European Commission, 2024).

According to Johannes P. Pfeifenberger, Alexander Orths, Wei Wang, and James DeLosa, the rapid decline in technology costs, the high quality of wind resources, and the increasing scale of turbines and offshore wind farms have made offshore wind the fastest-growing renewable energy technology globally (Pfeifenberger et al., 2024). In the context of the European Union’s post-2022 climate policy, this observation has direct policy relevance. The EU increasingly relies on offshore wind expansion to simultaneously strengthen energy security and accelerate decarbonisation.

The introduction of the REPowerEU plan in 2022 was one of the key turning points in the transformation of the European Union's energy policy. Its emergence was a direct response to the energy and security crisis caused by Russia's full-scale invasion of Ukraine, which exposed the EU's vulnerability related to its long-standing dependence on Russian fossil energy (European Commission, 2022a).

The plan is based on three key areas of action. The first is the diversification of energy supply, which involves the replacement of Russian gas with alternative sources, the development of LNG infrastructure and the conclusion of new strategic energy partnerships (European Commission, 2022a). The second direction is the acceleration of the development of renewable energy sources, within which the RES target was raised to 45% in 2030, permitting procedures were significantly simplified and the "renewables go-to areas" regime was introduced for the accelerated development of RES projects (European Commission, 2022b). Offshore wind energy, defined by the European Commission as a “critical component” of energy security and decarbonization (CERRE, 2023), occupies a special place in this block.

In the regulatory dimension, REPowerEU has strengthened the provisions of Regulation (EU) 2018/1999 on Energy Union Governance and Climate Action, which imposes an obligation on Member States to develop and update National Energy and Climate Plans (NECPs) and ensure regional coordination, especially for cross-border infrastructure projects.

Through the mechanism of Regulation 2018/1999, the investment sections of REPowerEU were integrated into the updated national energy and climate plans, ensuring their consistency with other policy instruments. As a result, the share of Russian gas in EU imports decreased from about 40% to about 10% within two years, although this was accompanied by high price volatility (European Commission, 2023).

Despite of the REPowerEU's focus on intensive scaling up of renewable energy, the plan also includes a number of provisions related to gas infrastructure, reflecting the crisis nature of EU policy after 2022. The updated regulatory package allows investments in a number of gas projects, including LNG terminals, floating regasification plants, gas pipelines and gas storage facilities, and there are no separate emission thresholds or other environmental criteria for these investments. At the same time, certain restrictions are imposed: funds from EU ETS auctions cannot be used to finance gas projects, and the total amount of funding related to ensuring security of supply cannot exceed 30% of the resources mobilized in each section of REPowerEU. Additional conditions include the requirement to commission such projects by the end of 2026 and their compliance with the EU's long-term goals for 2030 and 2050.

In the same period, the EU Taxonomy of Sustainable Finance, introduced by Regulation (EU) 2020/852, became of considerable importance. In 2022, the European Commission adopted an Additional Delegated Act, by which nuclear energy and natural gas were included in the taxonomy as "transitional" activities, provided that strict technical criteria are met. This decision should be seen in the broader context of the governance of the Energy Union: Regulation 2018/1999 requires both decarbonization and the guarantee of energy security, which was especially relevant during the crisis of 2022. Gas has temporarily become a critical infrastructure, and nuclear energy has become a stabilizing element of the energy system. In this context, REPowerEU has provided for the possibility of limited and conditional financing of gas and nuclear projects aimed at rapidly reducing dependence on Russian energy, including through retroactive support mechanisms (European Commission, 2022a). At the same time, scientists point out that the inclusion of nuclear energy in the EU taxonomy was not accompanied by a sufficient scientific assessment of the impact of waste, water consumption and the full life cycle, and therefore this decision is problematic from the point of view of sustainability (Klein et al., 2024).

A strategic role is played by the package of legislative initiatives on sectoral policies in the EU "Fit for 55", which defines the long-term trajectory of decarbonization and is a central element of the implementation of the European Green Deal (European Commission, 2021). Unlike REPowerEU, which was adopted as an emergency anti-crisis instrument in 2022, the "Fit for 55" package shapes systemic reforms in the EU ETS, renewable energy, transport, buildings and energy efficiency. It is this strategic framework that ensures a sustainable reduction in dependence on fossil fuel imports and creates economic incentives for investment in clean technologies. The institutional architecture of Regulation (EU) 2018/1999 and the additional investment impetus of REPowerEU accelerated the implementation of individual elements of the "Fit for 55", strengthening the internal coherence of European energy and climate policy after 2022.

Maryna Medvedieva, Roman Yedeliev, Nataliia Reznikova, Anton Nanavov and Ganna Grydasova highlight that the implementation of the European Green Deal is taking place amid increasing geopolitical and economic pressures, which complicate the EU's path toward climate neutrality, but the same time, they stress that through coordinated efforts and updated strategic approaches, the EU has managed to maintain its overall direction of climate transformation and continues to refine regulatory instruments to accelerate this process (Medvedieva, Yedeliev, Reznikova, Nanavov, & Grydasova, 2024).

Conclusions. Since 2022, the European Union has adapted its energy policy to the context of the security crisis, relying primarily on the institutional framework of Regulation (EU) 2018/1999, which defines the obligation of Member States to update NECPs. It is through this mechanism that the integration of increased climate ambitions, new energy security requirements and updated maritime spatial planning has been ensured.

Within this framework, the REPowerEU plan has introduced specific anti-crisis measures aimed at diversifying supplies, reducing permitting procedures, building infrastructure and accelerating the deployment of renewable energy. Offshore wind energy and the formation of offshore energy hubs combining spatial planning, interstate coordination and grid modernization have become extremely important.

At the same time, in crisis conditions, transitional and compromise solutions have emerged, in particular, the allowed financing of certain gas projects and the recognition of gas and nuclear

energy as transitional technologies within the Taxonomy of Sustainable Finance, which some scientists do not agree on.

Thus, after 2022, the EU's institutional architecture, special anti-crisis mechanisms, and transitional solutions have formed a new model of energy governance, which combines security needs, climate commitments, and spatial and infrastructural modernization.

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