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Concept, Developments, and Consequences of Greenwashing

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Abstract:

Purpose: *This paper aims to identify the problems arising from the relationship between greenwashing and the ambitious climate targets set by both Member States and the European Community as a whole. It is indisputable that climate change and its consequences need a firm response from states.*
Design/Methodology/Approach: *The authors use a literature review methodology consisting of a bibliographic analysis and an analysis of legal acts. The scientific argument concerns the study of the legal regulations' weaknesses based on a case study in the form of cases negotiated in international fora. The main objective of this research method was to identify the circumstances of legislative failure.*
Findings: *The identification of problems and their analysis can assist regulators in updating their legislative processes and also open up a wider discussion on implementation problems for pro-climate solutions.*
Practical implications: *The practical implications of this article are enormous. First, it should be noted that law has not always kept pace with economical solutions, and in this particular case, there is no opportunity for clear legal rules that allow to surpass issues such as greenwashing.*
Originality/Value: *The relationship between greenwashing, its qualified forms, and the implementation of legal solutions in the field of climate policy has not yet been the subject of extensive academic or economic-legal discussion.*

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1. Introduction

In recent years, the threat of climate change, already known for many years, has become increasingly recognised. Awareness of the significant risks associated with the coming changes is evident not only among scientists, but also among state authorities, international organisations, the public and private actors. Furthermore, it should be pointed out that, in addition to the dangerous consequences of climate change, attention is increasingly being drawn to the impact of human activities in this regard.

Widespread information campaigns by international organisations (Communication, 2020), actions by local authorities to support environmentally friendly investments (often in the form of cash grants), and public action in the form of protests or non-governmental organisations are creating worldwide pressure to respond to climate change.

Quite apart from the legitimacy of the emerging pressures, in addition to initiatives and measures of real benefit to the environment, such as the development of renewable energy, the development of sustainable urban planning (smart cities) (Kinelski, Stęchły, Sienicki, Czornik, and Borkowski 2021) or the commitment of countries to reduce greenhouse gas emissions within a specific timeframe (Zamasz, Kapłan, Kaszyński, and Saługa 2020), negative mechanisms are also emerging, such as greenwashing.

A common understanding of greenwashing indicates that it is the selective disclosure of information of a positive nature regarding the environmental performance of a specific organisational structure. Inevitably linked to the above is the fact of not fully disclosing negative information about these activities (Lyon and Maxwell, 2011). The phenomenon of greenwashing can be observed in a wide range of activities.

2. Literature Review on Greenwashing

Research in defining greenwashing emerged from the early 21st century and initially indicated that it was a form of corporate disinformation (Lauffer, 2003) (Ramus and Montiel, 2005). Over time, the concept has evolved in a way that does not contradict previous findings, but extends the already existing state of knowledge. Already in 2011, the hitherto corporate aspect, indicating behaviour within private entities, including that between shareholders and executives, was extended to include the relationship between the entity as a whole and the consumer, who is the recipient of the entity's goods and services (Delmas and Burbano, 2011). The concept of greenwashing began to expand considerably and even further divided into different types depending on who or what the greenwashing activities were aimed at (Berrone, 2016).

Because the definition of the concept is constantly expanding, partly due to the numerous new examples of such activities, the authors began to focus on creating a general definition that would be broad enough to offer some flexibility for new, as yet undefined activities. It can be pointed out that one of the more encouraging definitions of a general nature is that any behaviour that involves deliberate miscommunication about environmental actions or achievements can be considered greenwashing (Lyon and Montgomery, 2015). This definition provides a tool to effectively classify the actions of entities as greenwashing, which is used by a number of entities such as ClientEarth and Greenpeace. Thanks to this tool, the above-mentioned actors, and not only they, had the opportunity to publicly identify greenwashing activities of well-known business entities such as BP, ExxonMobil or Volkswagen (Robinson, 2021).

However, although some consensus has been reached on a general definition, some authors point out that the concept of greenwashing should be seen much more broadly. It is pointed out that not only do greenwashing activities not necessarily involve the sharing of specific information but also that they do not have to be intentional, that they do not have to be the actions of private actors, that such actions do not necessarily benefit the actors who are greenwashing and that such actions do not have to harm society (Bowen, 2014).

In addition to attempting to define such a broad concept as greenwashing, the direction the authors of the literature are taking is to determine what the determinants of its use and emergence are. As in the case of definitions, here too authors do not always arrive at a consensus.

One of the proposed disaggregation models is to divide the determinants of greenwashing into four variables that depend on the entity that uses such activities. These include non-market external, market external, organisational, and individual psychological factors (Delmas and Burbano, 2011; Wójcik-Jurkiewicz, Lubicz-Posochowska, Czarnecka, Kinelski, and Sadowska 2021). There are also narrower proposals that divide the determinants into those related to the internal organisation and those related to the external environment (Lyon and Montgomery, 2015; Drożdż, Kinelski, Czarnecka, Wójcik-Jurkiewicz, Maroušková, and Zych 2021).

Despite the various theories on the distribution of determinants, it should be pointed out that certain concretised factors can unquestionably be described as determinants of greenwashing. These include, in particular, pressure, as well as incentives originating outside the entity applying greenwashing. Both pressure and incentives can be provided by external actors, such as state authorities or authorities of international organisations, private investors or the public, namely consumers (Delmas and Burbano, 2011; Lyon and Montgomery, 2015; Wood, 2015). It is also worth pointing out that there are theories that link the occurrence of greenwashing and its intensity to the degree of regulation (de Jong, Huluba, and Beldad 2020).

It can be seen that in cases where there is economic growth, shareholders in private entities show more interest in regulation, leading to more frequent greenwashing activities. On the other hand, when there is deregulation, instead of greenwashing there is a propensity for brownwashing, particularly when the entity is recording lower profits (Kim and Lyon, 2015).

In addition to the definitional scope and determinants of greenwashing, the literature also attempts to specify its effects. Due to the wide range of definitions, as well as the many differences resulting from the determinants of greenwashing, it is definitely difficult to determine its unambiguous effects. The authors of the literature on the subject have therefore made a division by means of which the approximate effects of the phenomenon can be indicated (de Jong, Huluba, and Beldad, 2020). Of the several methods available for studying the effects of greenwashing, macro-scale studies, including survey-based studies, should be mentioned in particular.

On a macro level, it can be seen that the use of greenwashing does not have a positive effect and can even harm those who greenwash (Du, 2015; Walker and Wan, 2012). In addition, a survey-based method has shown that when greenwashing is used, and especially when information about such activities is disclosed, it results in the emergence of a sceptical attitude of consumers towards the entity in question, and also lowers their confidence in it (Chen and Chang, 2013).

3. Method

In this paper, the authors decided to use a literature review methodology. In principle, a literature review can take two forms, one being sections within an article that aim to demonstrate potential gaps in the currently existing literature (Sylvester, Tate, and Johnstone, 2013), as well as possibly providing a theoretical foundation for the proposed study (Hart, 1998). The second form the authors aim to use is to create an original and valuable research paper in the form of a 'review article', summarising information gathered from the literature to date without sourcing or analysing other data collected (Johnson and Adams, 2006).

4. Research – Current State

As mentioned in the above section of this article, we can see that greenwashing activities, as a rule, are the domain of private actors, and that it often arises in situations where there is an increase in regulation. The question must be asked whether, given Lyon and Montgomery's broad definition of greenwashing, which does not focus on the material aspect of the concept but points specifically to the material aspect of greenwashing activities, is it possible that the regulator itself could be the entity using greenwashing?

In order to answer the above question, it is first necessary to identify the area in which a state or even an international actor could carry out greenwashing activities.

An area which is subject to significant regulation and which is also of interest to the international community from the perspective of climate protection and action to combat climate change is energy. In the authors' view, given current events surrounding the significant rise in electricity prices across the European community, a topic that may have been the miscommunication underpinning greenwashing is the use of natural gas as an energy source.

As indicated by ClientEarth, the most common claims related to natural gas that qualify as greenwashing claims include: "Natural gas is backup for renewable energy" and "Natural gas is clean" (ClientEarth, 2021). With the above in mind, when attempting to determine whether and how the regulator can greenwash, among other things, in terms of information activities specifying gaseous fuels, legislative action in this area should be examined.

One of the key legislative proceedings that should be examined is the EU's Taxonomy Regulation (Regulation 2020) and delegated acts. Eu's Taxonomy came into force in July 2020, which means that regulation of a current nature is analysed. The premise of its creation is to enable the community to achieve the climate and energy targets set for 2030 and indicated in the European Green Deal. The European legislator considered that these achievements would be possible through a coherent understanding of the concepts that make up the term 'sustainable'. It was for this purpose that the EU Taxonomy, a common classification system for sustainable economic activities, was created.

It should be stressed that one of the main purposes for which this qualification system was set up is to counteract greenwashing practices by providing investors, legislators and private parties with clear definitions of what activities can be labelled as sustainable. Such efforts are intended to properly target both private investment (in the case of investors and other private actors) and likely subsidies or other forms of support at the state level (in the case of legislators). It should be noted that, in spite of the analysis of the regulator's actions from the point of view of greenwashing, regulation carried out in this way, especially to the extent that it is intended to influence the actions of private entities, may itself unintentionally create grounds for the spread of greenwashing activities in the market.

As indicated by the European Commission, the regulation under review aims to meet six environmental objectives, which include, climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems. These objectives can be achieved by identifying a specific list of environmentally sustainable activities. To this end, a Delegated Act has been issued in the form of a supplement to the EU Taxonomy, which will apply from 1 January 2022 (Supplementing Regulation, 2021).

It should be pointed out that the created Delegated Act, despite its importance in achieving the objectives of EU taxation, does not refer directly to natural gas. However, in the text of the act, in item 28, we may find a significant mention, which in a general manner indicates that the future of natural gas will be specified in subsequent delegated acts. In the meantime, it is indicated that, in principle, the use of natural gas, if it complies with the guidelines indicated in the Delegated Act, qualifies as an environmentally sustainable activity (Delegated Act, 2021).

The lack of firm regulations aimed at eliminating natural gas, which is a fossil fuel, makes it possible for the Member States of the European Union to make long-term decisions and investments with this very fuel at their heart. What is more, states can additionally support private entities in making such investments. At this point, Poland should be given as an example. According to studies, in 2020, electricity generation in Poland was based on about 70% coal and about 10% natural gas (Derski, 2021), which makes the desire and need for energy transition fully justified.

The problem, however, is how the indicated transformation is to be achieved. Bearing in mind the 2019 edition. "National Energy and Climate Plan 2021-2030", which was drawn up in consultation with the competent bodies of the European Union and in accordance with the regulations of the relevant regulations, one can see a clear role for natural gas in the indicated process (Plan, 2019). The Plan envisages not only such measures as the expansion of the natural gas network infrastructure, but also the increase of the stored volume of this raw material, maintaining its production level, as well as the implementation of support systems for certain investments using natural gas.

It should also be pointed out that in view of the status of natural gas as a source of electricity, in addition to the legal regulations themselves, major investments are also being made that will rely on it. An example of these is the construction of the 'Ostrołęka C' gas-fired power plant, whose estimated value is approximately 2.5 billion PLN. According to the comments of the president of the Orlen Group - one of the main investors - its construction is part of the group's long-term strategy aimed at low- and zero-emission energy.

As indicated in the introduction to this article, greenwashing is a concept strongly associated with groups exerting climate pressures. These groups undoubtedly include NGOs such as WWF, Greenpeace and ClientEarth. Thus, it should be pointed out that the discussed EU Taxonomy was not received enthusiastically by these groups.

The way in which natural gas is included in the EU Taxonomy has been noted, by WWF and ClientEarth. Both noted that including natural gas in the definition of environmentally sustainable initiatives could result in a conflict with legal standards and commitments to reduce greenhouse gas emissions. WWF has additionally pointed out that regulations constructed in this way could result in as many as half of

the gas-fired power plants in operation to date being considered 'green', not excluding as yet unconstructed investments (WWF, 2021).

Moreover, ClientEarth sent an official letter to the European Commission in October 2021, in which it points out the need to change the approach, as well as the errors in the application of the scientific evidence obligation (ClientEarth, 2021).

5. Conclusions

Given the broad methods of defining the concept of greenwashing presented in the literature review, it can be argued that the failure to condemn natural gas as a source of electricity can be considered a form of greenwashing, even if it does not have an intentional character. It should also be emphasised that such a positioned entity - the EU regulator - when applying greenwashing, causes other entities, including Member States, to also take similar actions, an example of which is Poland. The current state of affairs indicates that we are dealing with "cascading greenwashing".

The question that needs to be asked in the current state of affairs is what effect can greenwash on this scale have? The answer to this question may not only point a new way forward for the EU legislator, but also predict the consequences of the actions taken by Member States and private entities, which will undoubtedly concern the political-legal, economic but also social fields.

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