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ELECTROMOBILITY PROGRAMME IN POLAND AND THE PROBLEM OF PENAL RESPONSE

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1. INTRODUCTION

The need to protect health and natural environment together with the growing market for the so-called alternative-fuel vehicles made the European Union lawmaker realise that there is a necessity for legal response in the area. The development of low-emission and zero-emission transport has become one of the priorities of the EU environmental policy, beside such areas and directions of action as, inter alia, the reduction of greenhouse gases emission and the development of renewable energy sources.[1] The policy resulted in Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the development of the alternative fuels infrastructure. It obliges the Member States to deploy the infrastructure of alternative fuels, including electric vehicles recharging points and natural gas refuelling points, as well as to introduce relevant technical specifications, common rules for recharging electric vehicles and user information requirements.

As a result, considerable legislative changes were introduced within the Electromobility Development Programme in Poland in the period 2016–2025. The Council of Ministers adopted Electromobility Development Plan in Poland on 16 March 2017 and the National policy framework for alternative fuels infrastructure development on 29 March 2017.[2] Finally, on 11 January 2018, the Act

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1 See A. Rabiega, *Instrumenty prawne stymulujące rozwój elektromobilności i infrastruktury paliw alternatywnych*, Internetowy Kwartalnik Antymonopolowy i Regulacyjny 7, 2018, p. 103 et seq.; A. Szafrański, *Prawne uwarunkowania realizacji Strategii na Rzecz Odpowiedzialnego Rozwoju w obszarze energetyki ze szczególnym uwzględnieniem elektromobilności*, Internetowy Kwartalnik Antymonopolowy i Regulacyjny 6, 2017, p. 11 et seq.

2 For more, see K. Kokocińska, *Spójność działań organów władzy wykonawczej na rzecz rozwoju (na przykładzie sektora elektromobilności)*, [in:] K. Kokocińska, J. Kola (eds), *Prawne i ekonomiczne aspekty rozwoju elektromobilności*, Warszawa 2019, p. 20 et seq.

on electromobility and alternative fuels[3] was passed. It determines the rules for the development and functioning of infrastructure for the use of alternative fuels in transport, including technical requirements that must be met, obligations of public entities in the field of developing alternative-fuel infrastructure, user information requirements, conditions for the functioning of clean transport zones, national policy frameworks for alternative fuels infrastructure and methods of implementing them (Article 1 Elektromobility Act).

Among other aims, Article 1 of the statute determines the conditions of functioning of what is referred to clean transport zones. Such zones operate in many European cities, e.g. Paris and Hamburg, and their number has been systematically growing.[4] The national legislator also decided to create legal basis for the introduction of restrictions on petrol vehicles entry to specified zones. One of the guarantees of the compliance with the bans is the introduction of a regulation classifying such a misdemeanour. In accordance with Article 48 Electromobility Act, a provision of Article 96c[5] was introduced to the Misdemeanour Code, which stipulates: 'Whoever fails to comply with the restrictions on entry to a zone of clean transport, he is subject to a penalty of a fine of up to PLN 500.' Its broader analysis has not been carried out in literature, yet.

2. REGULATION UNDER ARTICLE 96C MISDEMEANOUR CODE

First of all, it should be mentioned that before the Electromobility Act was passed, there had been no national regulations directly banning the conduct specified in Article 96c MC. In general, the issue of electromobility and the market for alternative fuels had been then dealt with in a vestigial scope, mainly in the provisions of the Act of 25 August 2006 on the system and control of the quality of fuels,[6] the Act of 10 April 1997: Energy Law[7] and the Act of 21 December 2000 on technical supervision[8]. The statutes remain in force and, thus, the penal regulations laid down in them also do. However, they are not directly applicable to the issues analysed in the present article, therefore, there is no need to quote them.

As it has been mentioned above, matching the features of a misdemeanour under Article 96c MC is connected with failure to comply with restrictions on entry

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[3] Dz.U. 2018, item 317, as amended; hereinafter Electromobility Act.

[4] See E. Menes, M. Menes, W. Gis, *Elektryczne pojazdy samochodowe jako jeden z kierunków dekarbonizacji transportu*, Transport Samochodowy 2, 2010, p. 50 et seq.

[5] By the way, it should be emphasised that the legislator made an editorial error by introducing Article 96c to the Misdemeanour Code (henceforth MC) twice this way constructing two separate types of misdemeanours. It was done for the first time by means of the above-mentioned Act of 24 November 2017 amending the Act: Law on road traffic and some other acts (Dz.U. 2018, item 79, as amended), and then in accordance with Article 48 of the Act of 11 January 2018 on electromibility and alternative fuels (Dz.U. 2018, item 317). Eventually, pursuant to Article 71 para. 2 of the Act on public documents (Dz.U. 2019, item 53), the former provision was placed in Article 96d MC.

[6] Consolidated text, Dz.U. 2019, item 660.

[7] Consolidated text, Dz.U. 2019, item 755.

[8] Consolidated text, Dz.U. 2019, item 667.

to clean transport zones. Both the concept of such zones and the specification of the above-mentioned restrictions are based on the provisions of the Electromobility Act. First of all, it is worth considering the sense of criminalisation of the conduct classified in Article 96c MC. The legislative motives indicate an assumption that the development of such fuels as electricity and natural gas in transport is most desired, inter alia, from the perspective of the protection of human health and the environment. That is why, it is stipulated that community authorities should introduce clean transport zones where only alternative-fuel vehicles, exceptionally other vehicles, could be driven. As a result, the introduction of such zones should help local self-governments combat air pollution in towns. Non-compliance with the restrictions on entry to such zones can match the features of the discussed misdemeanour.[9] However, the above does not eliminate possible doubts connected with the indication of the legal interest that remains directly within the scope of protection of the normative construction of Article 96c MC. It should be pointed out that it was placed in Chapter XI MC entitled: Misdemeanours against safety and order in transportation. The fact can clearly suggest, at least *prima vista*, that in this case the object of protection consists in safety and order in transportation. It seems that order in transportation can be recognised as something remaining at least indirectly under the protection of Article 96c MC. However, making such a statement in relation to safety in transportation would mean a considerable misuse. Indeed, the norm discussed is blank in nature, because matching the features of the misdemeanour classified in it is possible when the provisions laid down in the Electromibility Act are also violated. Referring to them, including the above-mentioned aims of the statute expressed in Article 1 Electromobility Act, allows drawing a conclusion that the protected interests are, first of all, those values that were grounds for the application of the provisions of the statute. What is significant, within the regulation of Article 39 para. 1 Electromobility Act, the legislator clearly emphasises that the establishment of clean air zones should be substantiated by the need to prevent negative influence on human health and the environment connected with the emission of pollution that originates from vehicles. The above seems to result in a conclusion that the direct object of protection, in case of the type of misdemeanour laid down in Article 96c MC, is human health and the protection of the environment. On the other hand, such a statement can raise a question not about the grounds for criminalisation of the conduct specified in Article 96c MC, but about the rightness of the legislator's decision concerning placement of this regulation. It seems, however, that the criticism of the decision would be groundless. Firstly, it is hard to find a better place for a regulation concerning a misdemeanour described in Article 96c MC. The penal provisions of special statutes would not be appropriate. Secondly, the regulations of Chapter XI MC (Misdemeanours against safety and order in transportation) include other types of misdemeanours which main object

[9] Justification of the government Bill on electromobility and alternative fuels of 4 January 2018, Sejm paper No. 2147, p. 11.

of protection is undoubtedly safety and order in transportation (e.g. Articles 95a, 96b, and 96d MC).[10]

Next, it is necessary to evaluate the features of the act under Article 96c MC. It should be reminded once again that a perpetrator is subject to a penalty when he fails to comply with the restrictions on entry to a clean transport zone, which are determined in the provisions of the Electromobility Act. At first, attention should be drawn to the formulation of the verb. The legislator specifies the perpetrator's conduct by indicating that he 'does not comply with' specified restrictions. It concerns such conduct that is connected with failure to apply particular restrictions, disrespecting them, violating bans, infringing specified norms, etc.

Restrictions of this type concern the functioning of the clean transport zones. They may be established in the area of roads administered by a commune with the population exceeding 100,000 for a city centre built-up areas or its part constituting a densely built-up central city area determined in the local zoning scheme and, in the absence of one, in a study of conditions and directions of the commune zoning (Article 39 para. 1 Electromobility Act). Only a commune council is authorised to establish such a zone, which can be done by way of a resolution, which is a form of a local law act. A resolution should determine the borders of a clean transport zone, the organisation of the restrictions on entry to a clean transport zone and additional methods of publicising the content of the resolution establishing a clean transport zone (Article 40 paras 1–3 Electromobility Act).

As it has been stated earlier, the above-mentioned zones are established in order to prevent the negative influence of pollution from road transport on human health and the environment. To that end, in connection with the creation of clean transport zones, most vehicles are prohibited from entering them. However, the restrictions are not applicable to three situations. Firstly, they are not applicable to some types of vehicles, i.e. electric, hydrogen and natural gas vehicles (Article 39 para. 1 Electromobility Act). The legislator's original interpretation explains that:

1) An electric vehicle means a motor vehicle within the meaning of Article 2 para. 33 of the Act of 20 June 1997: Law on road traffic,[11] using only electric power from a battery charged from an external source;
2) A hydrogen vehicle means a motor vehicle within the meaning of Article 2 para. 33 LRT, using electric power produced from hydrogen in fuel cells that are installed therein;
3) A natural gas vehicle means a motor vehicle within the meaning of Article 2 para. 33 LRT, using compressed natural gas (CNG) or liquefied natural gas (LNG), including that of bio-methane origin (Article 2 paras 12, 14 and 15 Electromobility Act).

In addition, in case of an owner of a natural gas vehicle, the legislator indicates that he is not prohibited from driving into a clean air zone provided that he marks his vehicle with a special label on the windscreen, in accordance with the provisions

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[10] See M. Leciak, [in:] P. Daniluk (ed.), *Kodeks wykroczeń. Komentarz*, Warszawa 2016, pp. 663 and 682.

[11] Consolidated text, Dz.U. 2018, item 618, as amended; hereinafter LRT.

of Article 76 para. 1(a) LRT. A village or town mayor or a city president should provide the vehicle owner in the respective place of residence with such a marking (Article 39 para. 2 Electromobility Act).

In this context, it is worth considering whether the lack of such a marking on a natural gas vehicle can result in matching the features of a misdemeanour under Article 96c MC in the case of entry to a clean transport zone. Although the approval of such a possibility may seem irrational, inter alia due to purposefulness, however, the legislator clearly stipulates in Article 39 para. 2 Electromobility Act that the restrictions on entry to a clean transport zone, which can carry liability under Article 96c MC in case of non-compliance with them, are not applicable to the owner of a vehicle only if the vehicle is properly marked.

Secondly, apart from the categories of vehicles indicated in Article 39 para. 1 Electromobility Act, the restrictions on entry to clean transport zones are not applicable to:

1) Vehicles:
   a) of the Police, the General Inspectorate of Road Transport, the Internal Security Agency, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anticorruption Bureau, the Border Guard, the State Protection Bureau, the Prison Service, the National Revenue Administration, fire-fighting units, the Maritime Search and Rescue Service and life-saving services,
   b) used by the fleet of the Chancellery of the President of the Council of Ministers,
   c) of road administrators and entities performing road administrators' tasks,
   d) of the Armed Forces of the Republic of Poland, as well as foreign armed forces if an international agreement to which the Republic of Poland is a party stipulates so,
   e) with a gross weight of up to 3.5 tonnes if their owners or users are residents of clean transport zones;
2) Specialist means of transport used by medical rescue and health service transport units;
3) Zero-emission buses;
4) School busses (Article 39 para. 3 Electromobility Act).

Thirdly, a commune council has been entitled to decide, by means of a resolution, to establish a clean transport zone, and to exempt vehicles other than the above-mentioned from restrictions on entry to the zone (Article 39 para. 4 Electromobility Act).

Fourthly, a resolution establishing a clean transport zone gives a commune council the right to admit movement of vehicles other than the above-mentioned within the zone for a period not exceeding three years from the date of adopting the resolution provided an entry fee is paid (Article 39 para. 4a Electromobility Act). The fee for entry to such a zone is a commune's revenue that can only be used for the purpose of (Article 39 para. 4b Electromobilty Act):

1) signposting a clean transport zone;
2) purchasing zero-emission busses;

3) covering the costs incurred by local governments, except communes and counties with the population not exceeding 50,000, for developing analyses of costs and benefits connected with using in public transport zero-emission buses and other means of transport that use engines the working cycles of which do not result in the emission of greenhouse gases referred to in the Act of 17 July 2009 on the system of managing the emission of greenhouse gases and other substances[12] (Article 36 para. 1 and Article 37 para. 1 Electromobility Act). It is also indicated that the fee for entry to clean transport zones:
   a) cannot exceed PLN 2.50 per hour and cannot be charged only for movement of vehicles other than those stipulated in Article 39 paras 1–4 Electromobility Act in the zone between 9 am and 5 pm,
   b) can be made in the form of subscription or a lump sum (Article 39 para. 4c Electromobility Act). A village or town mayor or a city president is entitled to collect the fee (Article 39 para. 4d Electromobility Act).

As far as the above exemptions from Article 39 paras 1–4a Electromobility Act are concerned, it should be pointed out that the wording of Article 39 para. 1 raises considerable doubts as to how the exemptions from restrictions on entry to clean transport zones are formulated. It is indicated in the provision that 'there are restrictions on entry of vehicles' other than electric, hydrogen or natural gas ones to such zones. The term 'vehicle' has its legal definition according to which it is 'a means of transport designed to move on a road and a machine or a devise adjusted to do it' (Article 2 para. 31 LRT). Thus, it not only is a motor vehicle the movement of which can be connected with the emission of pollution harmful to human health and the environment, but also, for example, a bicycle (Article 2 para. 47 LRT) or a wheelchair (Article 2 para. 48 LRT). Therefore, the results of linguistic interpretation lead to a conclusion that the features of the discussed misdemeanour are matched also in the case a perpetrator enters a clean transport zone with the use of a vehicle other than a motor one. There should be no doubts that the legislator did not intend to penalise such cases.

Attention should also be drawn to the specific *lapsus linguae* in the wording of Article 39 para. 1 Electromobility Act. The legislator states in this provision that 'a clean transport zone can be established with restricted entry of vehicles other than' electric, hydrogen or natural gas ones. It seems that, instead of the word 'restricted', the legislator should have used the verb 'exempt' to speak about the entry of vehicles other than those indicated in Article 39 Electromobility Act.

One can mention many more such doubts. It is worth indicating term-related discrepancies between Article 96c MC and Articles 39–40 Electromobility Act. While the provisions of the Electromobility Act indicate restrictions on vehicle entry to clean transport zones, Article 96c MC speaks about restrictions on access to such zones.

Unfortunately, the legislator does not precisely determine the objective features of the place of commission of the discussed misdemeanour, either. It is hard to find whatever instruction concerning this issue in Article 96c MC as well as in

[12] Consolidated text, Dz.U. 2018, item 1271, as amended.

the provisions of the Electromobility Act. Although having checked the latter, one can find out that they can be applicable not only to road traffic but also, inter alia, to maritime transport, nevertheless, Article 39 para. 1 Electromobility Act clearly indicates that clean transport zones can be established in built-up residential areas with concentration of public buildings. Moreover, it should be pointed out that the legislator, within the scope of the provision of § 60d of the amended Regulation of the Minister of Infrastructure and the Minister of Internal Affairs and Administration of 31 July 2002 concerning traffic signs and signals,[13] determines the D-54 sign as 'clean traffic zone', which means entry to a clean transport zone, and the D-55 sign as 'clean transport zone end', which means an exit from a clean transport zone. In addition, in accordance with Article 39 para. 5 Electromobility Act, the borders of a clean transport zone are marked with signposts. Therefore, it can be recognised that the place of commission of a misdemeanour under Article 96c MC is one where there is road traffic. It must be reminded, however, that in accordance with Article 1 paras 1 and 2 LRT, the provisions of this statute are applicable to traffic on public roads, in residential areas and in traffic areas, as well as traffic outside those places within the scope necessary to avoid threats to safety of people or resulting from bans and road signals.

Analysing other objective features, it should be also pointed out that if matching them is to be connected only with such cases in which a perpetrator has failed to comply with particular provisions of the Electromobility Act concerning restrictions on entry to a clean transport zone, then it can also be treated as a formal misdemeanour within the regulation of Article 96c MC. In order to commit a misdemeanour classified in it, it is not important whether the above-mentioned conduct of a perpetrator has produced a result, e.g. in the form of a threat to human life, a threat to the environment, a threat to order in transportation, etc. And it is obviously not important with which of the statutory restrictions the perpetrator has not complied.

In the light of the above, it should also be recognised that matching the features of an act is in general connected with such conduct of a perpetrator which has the form of action. One can rather exceptionally imagine such conduct by which a perpetrator does not remove a vehicle from an area where there is a restriction, i.e. in the form of omission.

On the other hand, considerable interpretational problems can occur in connection with the need to determine a catalogue of potential perpetrators of the misdemeanour under Article 96c MC. There are no serious doubts whether such a case should be treated as an individual misdemeanour. However, they occur when it is necessary to precisely determine this catalogue. They focus on the question whether only drivers who do not comply with the provisions of the Electromobility Act should be included or whether also other people, e.g. vehicle owners should be considered. On the one hand, based on the regulations of the Electromobility Act, one may have an impression that they also apply to those persons. Article 39 para. 2 Electromobility Act indicates vehicle owners. However, it seems that such

[13] Dz.U. 2018, item 1656, as amended.

interpretation would be in conflict with *ratio legis* of the discussed regulation. Although the legislator indicates in the Electromobility Act that restrictions on entry to clean transport zones are applicable to vehicles, nevertheless it seems quite understandable for functional reasons. Thus, it should be assumed that the subject of the misdemeanour under Article 96c MC can only be the one who drives a vehicle other than electric, hydrogen or natural gas one, or such to which exemptions laid down in Article 39 para. 3 or 4 Electromobility Act are not applicable. Therefore, it does not matter whether a driver is a vehicle owner or just its user.

What is important, it should be mentioned here that the legislator did not consider penalisation of inciting and aiding and abetting in connection with the act under Article 96c MC (Article 14 § 1 MC) similarly to penalisation of an attempt (Article 11 § 2 MC).

As far as the subjective features of the norm under Article 96c MC are concerned, taking into account the regulation of Article 5 MC, there are no doubts that a perpetrator can match them intentionally (with direct or oblique intent) as well as unintentionally (because of carelessness or negligence). To exemplify unintentional conduct, two cases can be presented: in one a perpetrator has doubts concerning his vehicle (e.g. hybrid or electric) but nonetheless he unlawfully enters the clean transport zone; in the other case, which can be assessed similarly, a perpetrator does not pay attention to a signpost marking the clean transport zone or forgets that he has not paid the fee to prolong his subscription and enters the above-mentioned zone (Article 39 para. 4c(2) Electromobility Act).

Finally, it is worth considering whether, apart from the conduct specified in Article 96c MC, other features of the provisions of the Misdemeanour Code or the Criminal Code can be matched. Undoubtedly, the concurrence of Article 96c MC and Article 86 § 1 or § 2 MC seems to be possible if a perpetrator causes threat to safety in road traffic. The provision of Article 86 § 1 or § 2 MC prescribing a more severe penalty is applicable to the legal classification of an act (Article 9 § 1 MC). Similarly, it is necessary to indicate a real concurrence of provisions in the case a perpetrator drives a vehicle in the state specified in Article 87 § 1, § 1a or § 2 MC and does not comply with the restrictions under Article 96c MC. The provision of Article 87 § 1, § 1a or § 2 MC prescribes a more severe penalty (Article 9 § 1 MC). One cannot exclude a real concurrence of Article 96c MC and Article 88, Article 90, Article 91, Article 92 § 1 or § 2, Article 92a, Article 94, Article 95, Article 96a § 1 or § 2 and Article 97 MC. In accordance with Article 9 § 1 MC, the classification of the act should contain a more severe provision and, in the case of identical penalty, the provision that defines the nature of a perpetrator's conduct better. On the other hand, if a perpetrator matches the features of the act under Article 96c MC and then does not provide first aid to a victim of a road accident, there is a real concurrence of this misdemeanour and the misdemeanour under Article 93 § 1 MC (Article 9 § 2 MC).

From the practical point of view, it is also worth drawing attention to cases in which there is a concurrence of the type of misdemeanour discussed and a crime. For example, there is an ideal concurrence of a misdemeanour under Article 96c MC and an offence of an accident in transportation (Article 177 CC), causing a danger of

a catastrophe in transportation (Article 174 CC), or a catastrophe in transportation (Article 173 CC, Article 10 § 1 MC). The concurrence of this type can also be assumed in the case of driving under the influence of alcohol or drugs and violating the restrictions referred to in Article 96c MC (Article 178a § 1 CC). Similarly, matching the features of the act under Article 96c MC can be also connected with driving a vehicle in the conditions specified in Articles 178b, 180a or 244 CC.

Eventually, it is worth focusing on a sanction for a perpetrator of the act under Article 96c MC. It should be recognised that it is, in fact, symbolic in nature. It is a fine of PLN 20 to PLN 500 (Article 24 § 1 MC). Obviously, in the circumstances specified in Article 39 § 1 MC, it is possible to apply extraordinary mitigation of punishment and issue a reprimand (Article 39 § 2 and Article 36 § 1 MC) or abandon the imposition of a penalty (Article 39 § 1 and § 4 MC).

3. CONCLUSION

Summing up the above presentation focusing mainly on the evaluation of the new legal regulation placed in Article 96c MC, it should be first of all emphasised that it seems there is a faint possibility of its practical application at present. It results, inter alia, from the fact that so far the communes referred to in Article 39 para. 1 Electromobility Act have not decided to establish clean transport zones. There was only one zone like this established for a short period in the quarter of Krakow called Kazimierz.[14] Moreover, a comprehensive change of the legal acts granting powers to impose penalties for misdemeanours under Article 96c MC has not been introduced, yet. This concerns the provisions of the Regulation of the Minister of Internal Affairs and Administration of 17 November 2003 on misdemeanours for which municipal police officers are authorised to impose fines in the form of traffic offence tickets.[15] At the same time, there is no answer to the question why, among many obligations connected with electromobility and the market for alternative fuels resulting from Directive 2014/94/EU of the European Parliament and of the Council, the Polish legislator decided to introduce specific protection, i.e. in the form of a penal response, only in relation to clean transport zones. What is important, the introduction of the regulation specified in Article 96c MC does not cover any of the obligations imposed on the national legislators. Obviously, one can also ask a question why the introduction of other obligations stipulated in the provisions of the Electromobility Act is not accompanied by relevant penal regulations. For example, one can indicate inappropriate occupation of parking spaces next to free electric vehicles recharging points (Article 49 Electromobility Act; Article 12b Act of 21 March 1985 on public roads[16]).

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[14] www.bip.krakow.pl%2F_inc%2Frada%2Fuchwaly%2Fshow_pdf.php%3Fid%3D103563&usg=AOvVaw3jB9YCVi6kVMTFYO7A0oj3 (accessed 14.5.2019).

[15] Dz.U. 2003, No. 208, item 2026, as amended.

[16] Consolidated text, Dz.U. 2018, item 2068, as amended.

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ELECTROMOBILITY PROGRAMME IN POLAND AND THE PROBLEM OF PENAL RESPONSE

Summary

In accordance with the Act of 11 January 2018 on electromobility and alternative fuels, the creation of the so-called clean transport zones is stipulated. Failure to comply with the restrictions on entry to them can match the features of a new type of misdemeanour provided for in Article 96c of the Misdemeanour Code. The article aims to present its comprehensive analysis taking into account practical aspects of the above-mentioned provision.

Keywords: electromobility, alternative fuels, clean transport zones, misdemeanour, criminal penalty

PROGRAM ELEKTROMOBILNOŚCI W POLSCE A PROBLEM REAKCJI KARNEJ

Streszczenie

Z mocy przepisów ustawy z dnia 11 stycznia 2018 r. o elektromobilności i paliwach alternatywnych przewidziano powołanie tzw. stref czystego transportu. Nieprzestrzeganie ograniczeń w dostępie do nich może natomiast wyczerpywać znamiona nowego typu wykroczenia określonego w art. 96c k.w. Opracowanie ma na celu ich możliwie kompleksową analizę, przy uwzględnieniu praktycznych aspektów funkcjonowania ww. przepisu.

Słowa kluczowe: elektromobilność, paliwa alternatywne, strefy czystego transportu, wykroczenie, kara kryminalna

EL PROGRAMA DE ELECTROMOVILIDAD EN POLONIA Y EL PROBLEMA DE LA REACCIÓN PENAL

Resumen

En virtud de la ley de 11 de enero de 2018 sobre la electrmovilidad y combustibles alternativos se ha previsto la creación de las llamadas zonas de transporte limpio. La falta de observar las restricciones para acceder a ellas puede constituir el nuevo tipo de falta prescrito en el art. 96c del código de faltas. El artículo analiza de forma compleja dicha falta, considerando aspectos prácticos de funcionamiento de dicho precepto.

Palabras claves: electromovilidad, combustibles alternativos, zonas de transporte limpio, falta, pena criminal

ПРОГРАММА ЭЛЕКТРОМОБИЛЬНОСТИ В ПОЛЬШЕ И ПРОБЛЕМА УГОЛОВНО-ПРАВОВЫХ САНКЦИЙ

Аннотация

В соответствии с положениями Закона от 11 января 2018 года «Об электромобильности и альтернативных видах топлива» предусматривается создание так называемых «зон чистого транспорта». Несоблюдение ограничений касательно передвижения транспортных средств в таких зонах может исчерпывать признаки нового вида правонарушения, предусмотренного ст. 96 Кодекса административных правонарушений. Целью данной работы является по возможности всесторонний анализ признаков данного правонарушения с учетом практических аспектов функционирования вышеупомянутой статьи кодекса.

Ключевые слова: электромобильность; альтернативные виды топлива; зоны чистого транспорта; административное правонарушение; уголовное наказание

DAS PROGRAMM ZUR FÖRDERUNG DER ELEKTROMOBILITÄT IN POLEN UND DAS PROBLEM DER STRAFRECHTLICHEN REAKTION

Zusammenfassung

Nach den Bestimmungen des polnischen Gesetzes über die Elektromobilität und alternative Kraftstoffe vom 11. Januar 2018 ist die Schaffung sogenannter Umweltzonen vorgesehen und das Nichtbefolgen der verhängten Zufahrtsbeschränkungen kann den Tatbestand der in Artikel 96c des polnischen Ordnungswidrigkeitengesetzes bezeichneten neuen Art der Zuwiderhandlung erfüllen. Ziel der Studie ist eine möglichst umfassende Analyse dieser Tatbestandsmerkmale unter Berücksichtigung der praktischen Funktionsweise der genannten Vorschrift.

Schlüsselwörter: Elektromobilität, alternative Kraftstoffe, Umweltzonen, Ordnungswidrigkeit, strafrechtliche Sanktionen

PROGRAMME D'ÉLECTROMOBILITÉ EN POLOGNE ET LE PROBLÈME D'UNE RÉPONSE PÉNALE

Résumé

En application des dispositions de la loi du 11 janvier 2018 sur l'électromobilité et les carburants alternatifs, la mise en place de ce que l'on appelle zones de transport propre a été envisagée. Le non-respect des restrictions d'accès peut toutefois épuiser des éléments constitutifs d'un nouveau type d'infraction prévue à l'art. 96c du code des contraventions. Le but de l'étude est de les analyser de manière aussi complète que possible, en tenant compte des aspects pratiques du fonctionnement de la disposition susmentionnée.

Mots-clés: électromobilité, carburants alternatifs, zones de transport propre, infraction, sanction pénale

PROGRAMMA DI ELETTROMOBILITÀ IN POLONIA E IL PROBLEMA DELLA REAZIONE PENALE

Sintesi

Ai sensi delle norme della legge dell'11 gennaio 2018 sull'elettromobilità e sui carburanti alternativi si è prevista l'istituzione delle cosiddette zone di trasporto pulito. Il mancato rispetto delle limitazioni di accesso a tali zone può costituire un nuovo tipo di contravvenzione, definito nell'art. 96c del Codice delle contravvenzioni. L'elaborato ha per obiettivo la loro possibile analisi completa, considerando gli aspetti pratici di applicazione della norma sopra indicata.

Parole chiave: elettromobilità, carburanti alternativi, zone di trasporto pulito, contravvenzione, sanzione penale

Cytuj jako:

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