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Energy Economics

Sustainable Development and Competition Policy

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The European Union (EU) has in recent years made significant efforts to incorporate green growth issues to EU strategic policies in favor of public and private sectors. In this paper, we present critical aspects of the European Green Growth Deal and we discuss the role of competition policy on promoting sustainability issues. Competition policy should and can be a reliable mechanism to promote sustainable growth across the globe.

1. Introduction

The European Union (EU) has in recent years made significant efforts to incorporate green growth issues to a concrete framework that enables the implementation of green growth objectives in the EU strategic policies, in favor of public and private sectors. The objective of this paper is to present critical aspects of the European Green Growth Deal and to discuss the role of competition policy, on promoting and enhancing sustainability issues. For this purpose, Section 2 reviews the literature and Section 3 presents critical data of Sustainable Development Goals (SDGs). Section 4 highlights the role of competition policy and Section 5 concludes and offers some policy implications.

2. Literature Review

Competition policy relates to green growth, that is, it can take into account environmental and social priorities, through exceptions, exemptions and exclusions; through substantive competition rules fostering social or ecological purposes and through the enhanced application of competition laws (Gehring, 2006).[1] The second and the third categories are common methods used in many jurisdictions and are often perceived as the legitimate expression of broader public policy goals.

Koundouri et al. (2020) state that public and private funding should be channeled to those businesses that are sustainable and those that are willing to invest and to be monitored according to the EU taxonomy for sustainable investments. Sachs et al. (2019) suggest six transformations to achieve SDGs, that is, education, health, low – carbon energy, nutrition, environment and digital revolution, through the collaboration of state and businesses.

Lianos (2018) questions the monocentric model of competition law relying on the price-based revealed preference approach of a representative consumer and presents a polycentric competition law.

Schinkel & Spiegel (2017) argue that coordination of output or prices may boost investments in sustainability if firms are willing to choose green investments before choosing their profit maximized variables.

3. European Green Growth Agenda

Green Growth should foster economic development and natural assets must continue to provide the necessary resources in favor of humanity. Environmental sustainability seems to provide economic opportunities rather than challenges through the implementation of innovation and investments (OECD, 2011).

The European strategy, as part of European Green Deal, focuses on sustainable growth through smart, inclusive and competitive low-carbon economy. On the same ground, circular Action Plan, "*focuses on the entire life of products* [*for ensuring*] *that the resources used are kept in the EU economy for as long as possible*."[2]

The European Green Growth Agenda (EGGA) is part of Commission's policy to implement the United Nations (UN) 2030 Agenda as well as SDGs and covers all sectors of the economy (Sachs et al., 2019). It focuses on the transformation of the EU into a competitive economy with no net emissions of greenhouse gases in 2050. The SDGs, which were adopted in September 2015 by the General Assembly of the UN, defined 17 development goals for both developed and developing countries, encompassing economic, financial, institutional, social and environmental dimensions. Almost a year later, in 30 November 2016, the European Commission (EC), *among others*, proposed a new 30% energy efficiency target for 2030 (Polemis & Fotis, 2019).[3]

1 See the special issue of Competition Policy International (CPI), available at https://www.competitionpolicyinternational.com/antitrust-chronicle-sustainability/.

2 See https://ec.europa.eu/environment/circular-economy/index_en.htm.

Table 1 presents critical indicators of SDGs of the top five EU countries and Greece from 2010 to 2018. Particularly, it is evident from Table 1 that Norway, Iceland, Sweden, Finland and Latvia are the first five countries with the highest share of renewable energy in gross final energy consumption by sector (SRE) in 2018. Slovenia, Belgium, Netherlands, Lithuania and Italy are the top five countries with the highest recycling rate of waste (RRW) in 2016. Slovenia has increased the percentage rate of recycling waste by 28% from 2010 to 2016.

Table 1 also depicts greenhouse gas emissions intensity of energy consumption (GGE). Lithuania shows the highest intensity in 2018, following by Bulgaria, Netherlands, Cyprus and Luxembourg. The top five EU countries regarding energy import dependency (EID) in 2018 are Malta, Luxembourg, Cyprus, Belgium and Italy.

In regard with Greece, gross final energy consumption in 2018 is 18%, just above the average percentage of EU28. Also, Greece's percentage share of energy import dependency in the same year is almost 70,6%, far above the average percentage of EU28 and Eurozone countries, while regarding greenhouse gas emissions, Greece is below the average figures of EU28 countries (81,4%), but it is far below also the corresponding percentage emissions of the top five EU countries.

In the light of the above evidence, the top five EU countries have made promised steps towards Green Growth regarding the use of renewable energy and the elimination of Greenhouse gas emissions. However, since all of them show high levels of energy import dependency, more efforts should be made towards the implementation of EGGA.

In regard with Greece significant progress needs to be made, in particular by expanding the cyclical economy, taking actions to tackle climate change and ensuring biodiversity and a sustainable environment. The latter is a priority, particularly for Greece, as an import intensive country ("National Plan for Energy and the Climate," 2019), in order to follow a Sustainable Growth path for the transition of the Greek economy (Pissarides Commission, 2020).[4]

4. Green Growth and the Role of Competition Policy

Competition authorities should not provide straightforward competition rules when certain segments of a market need to be guaranteed to promote the development of a desirable new technology. Enhancing further competition in certain markets could also be in favor of green growth. Policies to encourage green growth consumption patterns have an enhanced link with competition policy. For instance, competition laws that prevent misleading advertising could be helpful to ensure greater respect for the rights of consumers, which is a component of sustainable development in many instances.

Around the globe one of the first cases encompassing sustainability issues is the Shell/Tepco Case[5]. In 2001, the Competition Tribunal of South Africa for the first time expressed its reading of the public policy evaluation in South African competition law. The European Court of Justice (ECJ), regarding Case C-379/98, stated that "*[t]he use of renewable energy sources for producing electricity, is useful for protecting the environment in so far as it contributes to the reduction in emissions of greenhouse gases which are amongst the main causes of climate change which the European Community and its Member States have pledged to combat*." The ECJ decided that while the law was violated by the anti-competitive behavior of the dominant firm, it was doing so for protecting the environment.

According to the HCC (2020), the Greek Competition Commission, has the power to issue an exemption decision under article 1 par. 3 of Law No 3959/2011. In its Decision No. 457/V/2009 the HCC issued an exemption decision under article 1 par. 3 of Law No 3959/2011 to the Public Company of Electricity (DEH) for an exclusive supply agreement for 15 years with a lignite mine for the generation of electricity, among others, on the grounds that security of energy supply would benefit direct consumers (HCC, 2009). Moreover, in its Decision No. 627/V/2016 the HCC cleared with commitments the acquisition of Piraeus Port Authority SA (PPA) by COSCO (Hong Kong) Group Limited (COSCO), among others, on the grounds that the clearance of the acquisition would benefit the public sector and the "users" of the Greek port, by €368,5 million (HCC, 2016).[6]

With regard to Greek and European merger control, public interest considerations do not form part of the substantive test in both regimes. However, past case law indicates that HCC has engaged with green growth arguments, although in all of these cases sustainability has played a secondary role in the decision reached (HCC, 2020). Particularly, in HCC's Decision No. 682/2019 the notifying party put forward two strategic objectives for the clearance of concentration; on the one hand, the reduction of energy required at all stages of its production process, through the recycling of aluminium products (scrap) by products whose use has been completed and, on the other hand, the achievement of acquired firm's green attitude in favor of sustainable development (HCC, 2019).[7]

All in all, the above mentioned case law indicates that competition policy should and must be the driving force of sustainability. The next step is to internalize green growth externalities into completion law towards sustainable growth.

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3 See also Fotis & Polemis (2018).

4 According to the interim report of Pr. Pissarides Commission, Greece lags behind most of the other EU member states, regarding the implementation of the EGGA goals for recycling and the circular economy, as well as energy efficiency.

5 The competition case law (across the globe or Greek) is presented in the Appendix.

6 See also IOBE (2016).

7 More merger case law by HCC can be found in HCC (2020), pp 42-45.

Table 1 Critical indicators of SDGs of the EU28, Eurozone, Greece and top five EU countries from 2010 to 2018

Countries	SRE								
	2010	2011	2012	2013	2014	2015	2016	2017	2018
EU28	13.16	13.41	14.69	15.39	16.22	16.73	16.99	17.47	17.98
Eurozone	13.14	13.17	14.66	15.29	16.11	16.46	16.73	17.28	17.75
Greece	10.08	11.15	13.74	15.33	15.68	15.69	15.39	16.95	18.00
Latvia	30.37	33.48	35.71	37.04	38.63	37.54	37.14	39.02	40.29
Finland	32.44	32.79	34.43	36.7	38.78	39.32	39.01	40.92	41.16
Sweden	46.96	48.25	50.23	50.8	51.87	53.01	53.37	54.20	54.64
Iceland	70.27	71.47	72.39	71.66	70.48	70.26	70.17	70.69	72.18
Norway	61.51	64.70	65.55	66.75	69.19	69.19	70.16	71.65	72.75
					GGE				
EU28	92.6	92.1	91.8	90.4	89	88.7	87.7	86.4	84.9
Greece	94.7	96.3	93.3	93.3	89.5	85.2	81.6	83	81.4
Bulgaria	117.9	122.1	115.5	109	110.1	111.8	106.5	108.5	99.2
Cyprus	103.3	101	100.5	100	100.8	100.5	99.9	97.4	93.5
Lithuania	124.9	112.6	111.8	112.3	107.9	105.7	106.3	101	102.8
Luxembourg	104.5	105	105.6	103	100.5	96.3	93	91.8	91.4
Netherlands	97.3	96.2	94.4	96	96.9	99.9	97.9	95	93.4
					EID				
EU28	52.58	54.11	53.53	53.18	53.50	53.87	53.79	55.10	55.68
Eurozone	61.79	62.39	60.99	59.85	60.10	62.06	61.87	63.03	63.25
Greece	68.59	64.68	65.89	61.75	65.46	71.08	72.91	71.28	70.67
Belgium	77.87	75.25	75.65	76.79	79.22	83.38	74.96	74.38	83.31
Italy	82.57	81.35	79.11	76.74	75.81	77.03	77.65	76.98	76.34
Cyprus	100.64	92.26	96.75	96.08	93.09	97.32	95.84	95.93	92.49
Luxembourg	79.04	78.60	77.53	75.56	74.93	75.45	74.78	71.96	74.25
Malta	99.04	101.3	100.97	104.14	97.66	97.30	101.08	103.04	97.83
					RRW				
EU28	55		55		56		57*		
Belgium	75		80		81		78		
Italy	60		64*		67*		68*		
Lithuania	50		51		57		68		
Netherlands	71		71		72		72		
Slovenia	52		74		75		80		

Share of renewable energy in gross final energy consumption by sector (**SRE**) (%) - Greenhouse gas emissions intensity of energy consumption (**GGE**) (2000=100) - Energy import dependency (**EID**) (%) - Recycling rate of waste excluding major mineral wastes (**RRW**) (%)

GGE: data for Eurozone is not available;
RRW: data for Eurozone and Greece is not available
*Estimations
Source: Eurostat (https://ec.europa.eu/eurostat/databrowser/view/sdg_07_40/default/table?lang=en - https://ec.europa.eu/eurostat/databrowser/view/sdg_13_20/default/table?lang=en - https://ec.europa.eu/eurostat/databrowser/view/sdg_07_50/default/table?lang=en - https://ec.europa.eu/eurostat/databrowser/view/sdg_12_60/default/table?lang=en)

5. Results and Policy Implications

The interconnection between competition policy and sustainable growth is unquestionable. The former may play crucial role by enhancing sustainability through competition rules. National competition authorities must be the mechanism fostering sustainable growth by taking into account various aspects of externalities and comparing discounted gains against environmental costs. The analysis reveals that EU countries should strengthen their efforts towards Sustainable Development, particularly by eliminating their dependency from energy imports.

One of the critical requirements for green growth is green investments, as it has been set out by EGGA (EC, 2019). Competition policy should, therefore, offer the incentives to firms to improve technological progress towards greener technologies and to avoid investments funds being channeled to brown technologies for short-term returns (Capasso et al., 2019).[8] For these purposes, it should balance the negatives and positives during the evaluation of firms' anti-competitive behavior for protecting the environment.

8 The need for long-run policies towards environmental investments for European countries is also well documented in Altinoz et al. (2020).

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APPENDIX

Competition Case Law:

Shell South Africa (Pty) Ltd and Tepco Petroleum (Pty) Ltd (Competition Tribunal Republic of South Africa Case No 66/LM/ Oct01, October 2001) (https://www.comptrib.co.za/case-detail/3877).

ECJ 13 March 2001, Case C-379/98, Preussen Elektra AG v. Schleswag AG [2002] ECR I-2099 (http://curia.europa.eu/juris/liste.jsf?num=C-379/98).

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