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# 18<sup>th</sup> VIENNA ECONOMIC FORUM VIENNA FUTURE DIALOGUE 2021

Economy meets Politics in a Digital World

During the Slovenian Presidency of the Council of the EU 2021

Energy Transition  
Infrastructure and Financial Challenges  
for the Countries of the VEF Region

Monday, 22 November 2021, 9:00 a.m. - 12:30 p.m. (CET)  
House of Industry (Federation of Austrian Industries), Vienna



LANSKY  
GANZGER  
GOETH  
FRANKL  
+ partner  
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# Changes to the rules and incentives of national legal systems as well as international treaties and changes to certain trade and investment rules

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## ***Energy Transition and expectations from a legal point of view***

The transition of energy systems is undeniably imperative in the face of climate change, and at the same time there is no doubt that it is extremely ambitious. It is clear that this necessary transformation will not be achievable without drastic changes to the rules and incentives of national legal systems as well as international treaties and changes to certain trade and investment rules.

Now, in the context of the Vienna Economic Forum, we are speaking about the legal framework of several Central and South-East European states as well as European Union law. Obviously, I cannot cover all the different fiscal and regulatory frameworks of individual countries, but I can briefly cover the EU rules, and I can touch upon larger trends that will impact everybody in some form or another.

In terms of EU law, a **host of new directives and rules** have been proposed this year by the **Commission** that are now being considered by the **Council and the European Parliament**. These new rules and directives will set ambitious binding targets for the reduction of greenhouse gas emissions and for energy efficiency in all sectors including electricity generation, industry, heating and cooling, and transportation. In addition, a **new and stricter emission trading system** has been proposed which would tax imports from third countries according to the greenhouse gases emitted in the production and transportation process. These EU laws will be supplemented by **funding and technical cooperation for the rollout of energy efficient and carbon-neutral infrastructure as well as research and development**.

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More generally, we see a trend towards fiscal and regulatory changes to put a price on carbon emissions and impose a system of border adjustments to prevent companies from pushing the problem to the emerging world, as well as binding targets for CO2 reductions and subsidies for carbon-neutral technologies.

Another trend that we are witnessing is the **gradual divestment from coal, oil and gas, and other CO2 intensive industries by pension funds, institutional investors, and academic foundations and endowments**. At the moment, institutions managing almost 40 trillion USD have pledged to fully divest from fossil fuels, and the movement is showing results: Over the past decade, the fossil fuel supermajors (e.g., Exxon, Chevron, Shell, BP) have tumbled from their position as the planet's most valuable companies. In 2020, Exxon was kicked from the Dow Jones index, and the once mighty energy sector is now the smallest sector in the S&P 500.

As fossil fuel equity prices plummet, holding onto these companies has been value-destroying for many shareholders, and this raises an interesting legal question for institutional investors and banks: As stricter rules and regulations are foreseeable, and market trends are clearly against the fossil fuel industry, **would an investment manager or director of a pension fund or bank violate his obligations to protect his investors by NOT divesting from this industry?** I would argue we are not too far away from the point where this will become a real question that will occupy the courts.