



1 June 2017

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Chamber of Deputies of the Parliament of the Czech Republic on a proposal for a Regulation of the European Parliament and of the Council on the internal market in electricity (recast)
(COM(2016)0861 – C8-0492/2016 – 2016/0379(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

Please find attached a reasoned opinion from the Chamber of Deputies of the Parliament of the Czech Republic on the above-mentioned proposal for a Regulation.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

Parliament of the Czech Republic
CHAMBER OF DEPUTIES
2017
7th Parliamentary Term

376
RESOLUTION
of the Committee on European Affairs
at its 63rd meeting
of 20 April 2017

on a proposal for a Regulation of the European Parliament and of the Council on the internal market in electricity (recast) (document code 15135/16, COM(2016)0861 final)

on a proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast) (document code 15149/16, COM(2016)0863 final)

on a proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) (document code 15150/16, COM(2016)0864 recast)

on a proposal for a Regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC (document code 15151/16, COM(2016)0862 final)

The Committee for European Affairs of the Chamber of Deputies of the Parliament of the Czech Republic, after hearing the information provided by the director of the Energy Efficiency and Savings Department of the Ministry of Industry and Trade, Ing. Vladimír Sochor, and the vice-chairman of the Energy Regulatory Office Ing. Vladimír Outrata, after hearing the report from Deputy Jan Zahradník, and after discussion,

approves the opinion attached to this Resolution.

Josef Šenfeld (signed)
Verifier

Jan Zahradník (signed)
Rapporteur

Igor Jakubčík (signed)
Vice-Chair

Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (recast)

COM(2016) 0861 final, Council No 15135/16
Interinstitutional file 2016/0379/COD

Proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast)

COM(2016) 0863 final, Council No 15149/16
Interinstitutional file 2016/0378/COD

Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (Recast)

COM(2016) 0864 final, Council No 15150/16
Interinstitutional file 2016/0380/COD

Proposal for a Regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC

COM(2016) 0862 final, Council No 15151/16
Interinstitutional file 2016/0377/COD

Legal basis:

Article 194(2) of the Treaty on the Functioning of the European Union (COM(2016)0861, COM(2016)0863, COM(2016)0864).

Article 194 of the Treaty on the Functioning of the European Union (COM(2016)0862).

Date of submission to the Chamber of Deputies by the Committee on European Affairs:
2 December 2016

Date of hearing by the Committee on European Affairs:
15 December 2016 (phase 1)

Procedure:
Ordinary legislative procedure.

An interim opinion of the Government (pursuant to Section 109(a)(1) of the Rules of Procedure of the Chamber of Deputies):

Dated 6 March 2017, 7 March 2017 and 8 March 2017, and served to the Committee for European Affairs on 20 March 2017 via the ISAP.

Evaluation with regard to the subsidiarity principle:

- **Justification and subject:**

The Energy Union is one of the priorities of the current European Commission. In the package presented here (for simplicity, referred to as ‘Winter Energy Package’), the

Commission presents draft legislation and simplification measures which, according to the Commission, aim to modernise the economy and boost investment in the clean energy sector. The legislative proposals relate to energy efficiency, renewable energy, the functioning of the electricity market, security of energy supply and rules for the management of the Energy Union. According to the Commission, the Energy Union is the main driving force and the EU's contribution to a global and complete transition to a low-carbon economy. The European Union has also already ratified the Paris Agreement, which subsequently entered into force in November 2016. Both the European Council and the European Parliament have repeatedly stressed that a well-functioning integrated energy market is the best tool to guarantee affordable energy prices, secure energy supplies and enable the cost-efficient integration of larger volumes of electricity generated from renewable sources.

This second part of the package represents the legislative proposals relating to the functioning of the electricity market and security of supply.

The existing electricity market design is based on the rules of the ‘Third Energy Package’, adopted in 2009. The submitted proposals are intended to amend key legal acts of this package. The latest developments have led to fundamental changes on the European electricity markets. The share of electricity generated from renewable energy sources increased sharply,¹ and there have also been significant technological changes. It is expected that the electricity market will, in the future, be characterised by more variable and more decentralised generation of electricity and increased interdependence of the Member States, and that it will bring consumers new technological opportunities to reduce expenditure and to participate actively on the electricity market through demand response, self-consumption or storage. The current initiative for the new design of the electricity market thus seeks to adapt the existing market rules to the new market realities.

Adapting market rules

The existing market rules are based on the predominant generation technologies of the last decade, i.e. centralised, large-scale fossil fuel-based power plants with limited participation of consumers.² Due to the increase in the proportion of electricity from renewable energy sources, the key short-term electricity markets will be those that will enable participation shortly before self-supply, making cross-border trading possible. Short-term markets will provide new business opportunities to offer ‘back-up’ energy solutions at times of high demand and scarce renewable generation. The new market design aims to improve price signals to drive investment in areas where it is needed most, reflecting grid constraints and demand centres, rather than national borders. Price signals should also allow appropriate rewards for flexible resources, and ensure effective use of existing generation capacity. The Commission states that it is therefore necessary to review legislation that could distort pricing.

Putting consumers at the heart of the energy market

Although consumers can generate and store electricity and manage their energy consumption

¹ The characteristics of electricity from renewable energy sources – more variable, less predictable and more decentralised than traditional generation – require an adaptation of market and grid operation rules to the more flexible nature of the market.

² The current situation is that national market rules (e.g. price caps) and state interventions currently hinder prices from reflecting when electricity is scarce. Furthermore, price zones do not always reflect actual scarcity since they can be poorly configured and instead follow political borders.

more easily than ever, the current design of the retail market prevents them from being able to make full use of such opportunities. In most Member States, consumers have very little incentive to change their consumption in response to changing prices on the markets, as real-time price signals do not reach final consumers. More transparent real time price signals should stimulate consumer participation in the market – either individually or through aggregation – and make the electricity system more flexible, facilitating the integration of electricity from renewable energy sources. In addition, new demand-side services are appearing, where new market actors offer consumers the option of managing their electricity consumption and paying them for their flexibility. The new market design should ensure that the state does not interfere with supplier prices and that any exceptions are properly justified. Rapidly falling technology costs mean that more and more consumers are able to reduce their energy bills by using technologies such as rooftop solar panels and batteries. However, self-generation is still hampered by a lack of common rules for 'prosumers'. Appropriate rules could remove these barriers, e.g. by guaranteeing consumers' rights to generate energy for their own consumption and sell surplus into the grid, while taking into account the costs and benefits for the system as a whole. Local energy communities could be an effective way to manage energy at a local level. The ability to address some of the issues associated with variable generation more locally could lead to significant cost reductions. Another objective is to improve information and transparency. At the same time, the most vulnerable members of society must be protected so as not to increase the total number of households suffering energy poverty. With rising levels of energy poverty and a lack of clarity on the most appropriate means of tackling consumer vulnerability and energy poverty, the new market design proposal requires Member States to duly measure and regularly monitor energy poverty using procedures defined at EU level.

Security of electricity supply

The Commission states that security of supply can, in a fully interconnected and synchronised network with well-functioning markets, be organised far more efficiently and competitively than on a purely national basis. The Commission also states that the most efficient remedies to national generation deficits are often regional measures allowing Member States to benefit from generation surpluses in other countries. A coordinated European assessment should be made that would enable a realistic picture to be obtained of the potential production needs, or mechanisms should be devised that would minimise the distortion of the internal market.

Strengthening regional cooperation

The close interconnection of EU Member States through the common trans-European grid is unique in the world and a great asset when it comes to dealing efficiently with the energy transition. Experience has shown, however, that uncoordinated national decisions can lead to significant costs for European consumers. The facts that some interconnectors are only used to 25% of their capacities, often due to uncoordinated national limitations, and that Member States have not been able to agree on appropriate price zones, illustrate that there is a need for more coordination between transmission system operators (TSOs) and regulators. Mandatory cooperation would be expanded to other areas of the regulatory framework³.

³ In certain areas, for example the Europe-wide market coupling mechanism, TSO cooperation has already become mandatory, and the system of majority voting on some issues has proven to be successful in areas where voluntary cooperation (leaving each TSO a veto right) did not lead to efficient results for regional problems.

To this end, TSOs could decide within regional operational centres (ROCs) on those issues where fragmented and uncoordinated national actions could negatively affect the market and consumers (e.g. in the fields of system operation, capacity calculation for interconnectors, security of supply and risk-preparedness).

Adapting regulatory oversight to regional markets

All main regulatory decisions are currently taken by national regulators, even in cases where a common regional solution is needed. Fragmented regulatory oversight leads to a risk of diverging decisions and unnecessary delays. The Commission considers it appropriate to adapt regulatory oversight to the new developments on the market. Strengthening the powers of ACER for those cross-border issues that require a coordinated regional decision should contribute to faster and more effective decision-making on cross-border issues. National regulators, deciding within ACER on those issues through majority voting, would remain fully involved in the process. The role of ENTSO-E should also be better defined in order to strengthen its coordination role and render its decision-making process more transparent.

- **Content and impact**

- 1. With specific regard to the proposed Directive concerning common rules for the internal market in electricity**

Chapter I Subject and definitions: Contains a clarification of the scope and subject matter of the Directive and updated definitions.

Chapter II General rules for the organisation of the sector: Member States have to ensure that the EU electricity market is competitive, consumer-centred, flexible and non-discriminatory. It emphasises that national measures should not unduly hamper cross-border flows, consumer participation or investments. It further enshrines the principle that supply prices will be market-based, subject to duly justified exceptions. It stresses the right to choose the supplier and updates rules on possible public service obligations that may be imposed by Member States on energy undertakings.

Chapter III Strengthening the position of consumers and their protection: It sets rules on clearer billing information and on certified comparison tools. Consumers are to be entitled to a dynamic price contract, are to be able to freely choose and change suppliers or aggregators, and are to be able to engage in demand response, self-generation and self-consumption of electricity. Consumers are to be enabled to request a smart meter. There is to be an improvement in rules on consumers' possibility to share their data with suppliers and service providers, in particular by specifying the role of the parties responsible for data management (a common European data format will be introduced by the Commission in an implementing act). Member States are to address energy poverty. Member States are also to define frameworks for independent aggregators and for demand response along with principles that enable their full participation in the market. It defines a framework for local energy communities which may engage in local energy generation, distribution, aggregation, storage, supply or energy efficiency services. It further provides some clarifications to provisions on smart meters, single points of contact, rights to out-of-court settlement, universal service and vulnerable consumers.

Chapter IV Operation of distribution systems: Clarifications concerning the tasks of DSOs, in particular relating to the activities of DSOs concerning the procurement of network services to ensure flexibility, the integration of electrical vehicles and data management. It also clarifies the role of DSOs with respect to storage and recharging points for electric vehicles.

Chapter V General rules for transmission system operators: Clarification regarding ancillary services and newly-established regional operating centres.

Chapter VI Unbundling of transmission system operators: Rules on unbundling remain unchanged as concerns the main substantive rules on unbundling, notably with respect to the three regimes for TSOs (ownership unbundling, independent system operator and independent transmission operator), as well as with respect to the provisions on TSO designation and certification. It clarifies the possibility of TSOs owning storage or providing ancillary services.

Chapter VII National regulatory authorities: It emphasised the obligation of regulators to cooperate with regulators in neighbouring countries and with ACER if questions arise with cross-border relevance. The list of their tasks is updated with regard to the oversight of newly-established regional operating centres.

Chapter IV Final provisions: This chapter provides, inter alia, provisions on the exercise of delegated powers by the Commission and on the committee established in accordance with the comitology rules pursuant to Regulation (EC) No 182/2011.

The annexes set out more requirements for comparison tools, billing and billing information, and amend pre-existing requirements for smart meters and their roll-out.

2. With specific regard to the proposed Regulation on the internal market in electricity

Chapter I Subject matter, scope and definitions: It is stressed here that it is important that market signals be undistorted and thus contribute to increasing flexibility, decarbonisation and innovation. Definitions are updated and supplemented.

Chapter II General rules for the electricity market: Set out here are the core principles that must be respected in the context of national legislation in the field of energy. Also set out are principles for electricity trading rules within different trading timeframes (balancing, intraday, day-ahead and forward markets), including principles for price formation. It clarifies the principle of balancing responsibility and defines a framework for rules for the dispatch and curtailment of generation and demand response, which are to be more market-compatible, including conditions for any exceptions thereof.

Chapter III System access and excess capacity management: This chapter describes the process to define bidding zones in a coordinated manner, in line with the review process created in Regulation 1222/2015 establishing a Guideline on Capacity Calculation and Congestion Management. In order to address the persisting problem of significant national limitations to cross-border electricity flows, the conditions for such exceptional limitations are clarified, notably by rules that ensure that electricity imports and exports are not restricted by national actors for economic reasons. This chapter further contains amendments to the existing principles for transmission and distribution network tariffs, and sets a procedure for

fostering the progressive convergence of transmission and distribution tariff methodologies. It amends the rules for the usage of congestion rents.

Chapter IV Resource adequacy: Set out here are new general principles for addressing resource adequacy concerns by Member States in a coordinated manner; principles and a procedure are set out for the development of a European resource adequacy assessment to better determine the need for capacity mechanisms and, if appropriate, the setting of a reliability standard by Member States. Market-compatible design principles for capacity mechanisms are clarified, including rules for the participation of capacity located in another Member State and for interconnection usage. There is a specification of how Regional Operational Centres, national TSOs, the ENTSO for electricity and national regulators via ACER will be involved in the development of technical parameters for the participation of capacities located in another Member State as well as the operational rules for their participation.

Chapter V Operation of transmission systems: This chapter sets out the tasks and obligations of the ENSTO-E network and tasks of ACER relating to monitoring. Also defined here are regional operational centres (establishment and purpose, activities, requirements and procedures for adopting decisions and recommendations, composition and responsibilities of the Management Board, system of liability, etc.). This chapter also contains rules for the connection of cogeneration units that were previously contained in Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency. The rules on a ten-year network development plan, inter-transmission system operator compensation, information exchange and certification remain largely unchanged.

Chapter VI Operation of distribution systems: This chapter establishes a European entity concerning distribution system operators (DSO EU) and defines the establishment procedure, tasks, and consultations with interested parties. Rules are laid down for cooperation between DSOs and TSOs.

Chapter VII Network codes and guidelines: This chapter sets out the existing powers and rules for the Commission to adopt delegated acts in the form of network codes or guidelines. It clarifies their legal nature, modifies their adoption and extends their content to include area relating to systems of distribution tariffs, rules for the provision of occasional ancillary services, demand-side responses, energy storage and rules for restricting demand, cyber-security rules, rules relating to regional operational centres, restrictions on generation and the redispatch of generation and demand. It should simplify and streamline the procedure for drawing up electricity network codes, and give national regulators the possibility to decide within ACER on issues concerning the implementation of network codes and guidelines. The European entity for DSOs and other stakeholders are also to be involved more closely in the procedure of developing proposals for electricity network codes.

Chapter IV Final provisions: These contain the existing rules for the exemption of new direct current interconnectors from certain requirement of the Electricity Directive and Regulation and clarify the procedure for subsequent amendments to the rules by NRAs.

The annex defines which functions are allocated to regional operational centres.

3. With specific regard to the proposed Regulation establishing an EU Agency for the Cooperation of Energy Regulators (ACER)

Chapter I Objectives and tasks: The purpose of the EU Agency for the Cooperation of Energy Regulators (hereinafter referred to as the ‘Agency’) is to assist regulatory authorities when carrying out regulatory tasks in the Member States at Union level and, if necessary, to coordinate their activities. The chapter defines the kinds of documents that the Agency may issue (in particular, opinions and recommendations, decisions and framework guidelines), and lays down the tasks of the agency. New tasks for the agency to include coordination, supervision and approval of methods. With respect to the adoption of electricity network codes, ACER is given more responsibility in elaborating and submitting the final proposal for a code. The proposal also includes a formal place for DSOs to be represented at EU level, notably in the development of network code proposals. For tasks in a regional context concerning only a limited number of national regulators, a regional decision-making process is also introduced.

Chapter II Organisation of the agency: The Agency is an institution with legal personality. In each Member State, the Agency enjoys the most extensive legal capacity accorded to legal persons under national law. In particular, it is able to acquire or dispose of movable and immovable property and be a party to legal proceedings. It is based in Ljubljana. This chapter contains the organisational regulations for the Management Board, Council of Regulators, directors and other bodies, while preserving the main characteristics of the existing management structure. Some of the provisions are adapted to the Common Approach to decentralised EU agencies or new voting rules in the Council, but that is not the rule. Cases in which the Agency may deviate from the Common Approach are justified (the current system guarantees an appropriate balanced distribution of powers among the various bodies, taking into account the specific characteristics of developing the internal energy market, and also the activities of the Management Board have proved to be efficient and effective). The Commission states that, although at this stage it is not considered appropriate to modify the management structures of the agency according to the Common Approach, it will monitor whether the deviations are still justified, which will happen during the next evaluation, planned for 2021.

Chapter III Determination and structure of the budget: This chapter contains financial provisions; several provisions are adapted to the Common Approach on decentralised agencies.

Chapter IV General and final provisions: This updates several of the provisions in accordance with the Common Approach.

4. With specific regard to the Regulation on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC

The European Commission states that this proposed Regulation is to ensure that all Member States put in place appropriate tools to prevent, prepare for and manage electricity crisis situations. The risk of an electricity crisis arising as a result of a variety of circumstances (e.g. extreme weather conditions, cyber attacks, etc.) cannot be ruled out even in the case of well-functioning markets and grids. Given that electricity systems are integrated, crises often have

a cross-border effect⁴. The existing legislation does not reflect the interconnectedness of the electricity market today. The main problems have been assessed as being:

- crisis plans and actions remain solely national in focus;
- there is a lack of information-sharing and transparency; and
- there is no common approach to identifying and assessing risks.

Specific points of the proposal:

Chapter I General provisions: Here, it is specified that each Member State is to establish, as soon as possible, the definition and obligation of the national governmental or regulatory authority as its competent authority responsible for carrying out the tasks set out in this Regulation. These authorities collaborate with each other.

Chapter II Risk assessment: Member States are to ensure that all risks associated with the safety of the electricity supply have been assessed in accordance with the rules under this Regulation and Regulation on electricity (COM(2016)0861). They will cooperate with ENTSO-E to this end. ENTSO-E submits to the Agency a proposed methodology for detecting the most serious electricity crisis scenarios at the regional level. Based on this methodology, ENTSO-E will ascertain the most serious electricity crisis scenarios for individual regions. These scenarios will be submitted to the Electricity Coordination Group. At the same time, Member States will determine the most serious electricity crisis scenarios at national level (based on the methodology). Member States inform the Electricity Coordination Group and the Commission of the potential risks they perceive, as well as of the measures taken to prevent them. ENTSO-E will also submit a proposed methodology for assessing short-term adequacy, namely seasonal adequacy as well as week-ahead to intraday generation adequacy forecasts. Once this has been approved by ACER, it should be used by Member States and ENTSO-E in their short-term assessments.

Chapter III Risk-preparedness plans: On the basis of regional and national electricity crisis scenarios, the competent authority of each Member State will draw up a risk-preparedness plan in consultation with designated entities. The consultation process, adoption, submission, subsequent publication and regular updating of the plans are specified. The particulars of the plans are described in detail. The plans should consist of two parts, setting out national measures and coordinated measures agreed between the Member States in each region. They should take account of the specific characteristics of each Member State and set out clearly the roles and responsibilities of the competent authorities. Measures should be clearly defined, transparent, proportionate, non-discriminatory and verifiable. Furthermore, they should not endanger the security of electricity supply of other Member States or of the Union as a whole. The plans should include measures to ensure that simultaneous crisis situations are properly prevented and managed. The plans must be approved at the regional level and their minimum content must be determined.

Chapter IV Management of electricity crisis situations: If some information indicating that an incident may occur that is likely to lead to a significant deterioration of the situation in the

⁴ In addition, some circumstances may affect several Member States, and even events occurring at a local level may extend across a border.

area of electricity supply in a Member State, the competent authority of that Member State must immediately provide early warning to the Commission and the Electricity Coordination Group. When confronted with an electricity crisis situation, the competent authority of the Member State in question declares the electricity crisis and informs the competent authorities of the neighbouring Member States and the Commission without undue delay. They must provide information on the causes of the crisis, measures taken and planned to mitigate it, and the possible need for assistance from other Member States. Member States are obliged to act and work together in a spirit of solidarity in order to avoid and manage crisis situations and ensure supplies where they are most needed, in exchange for compensation. In the event of an electricity crisis, Member States must act in full compliance with internal electricity market rules. Non-market-based measures can be used only as a last resort and must be necessary, proportionate, non-discriminatory and temporary.

Chapter V Evaluation and monitoring: Immediately after an electricity crisis situation has been announced, the competent authorities concerned submit an evaluation report to the Electricity Coordination Group and the Commission. Also specified is the monitoring to be carried out by the Electricity Coordination Group.

Chapter VI Final provisions: Set out here are provisions relating to cooperation with the contracting parties to the Energy Community, provisions on the exercise of delegated power by the Commission, etc.

Impact on the state budget and legal order of the Czech Republic

Upon approval, the regulation will be binding and directly applicable. Member States will be obliged to bring their legal system into line with the Directive on common rules for the internal market in electricity.

- **Opinion of the Government of the Czech Republic**

The position of the Government of the Czech Republic on the proposal for a Directive on common rules for the internal market in electricity, the proposal for a Regulation on the internal market in electricity, and the proposal for a Regulation on risk-preparedness in the electricity sector:

In connection with the Winter Energy Package, the Czech Government states that its important principle is the centralisation of European energy policy at the expense of national policies; in the opinion of the Government, as a consequence of this centralisation and the transfer of some national competences to the European level, there is practically *a breach of Member States' rights to choose their energy mix*. According to the Czech Government, the proposals presented also reinforce the regulation of the whole sector, against efforts to return to market conditions. The capacity mechanisms introduced in some countries are, according to the Government, proof of the emergence of national electricity market mutations, which are moving away from the single market.

The Government welcomes the strengthening of the position of customers on the electricity market. A problem the Government sees in the proposal is that some market players (e.g. aggregators, active customers or local energy communities) would benefit compared to other players. The Government welcomes the proposed removal of maximum price ceilings on the wholesale electricity market. The Government has reservations about the fact that, even

though the proposal talks in general terms about ensuring a level playing field for all resources on the production and consumption sides, some points do not correspond to this (for example, the possibility of exempting small sources from responsibility for deviation or maintaining priority use). The Government has some comments of a rather technical nature on the area of capacity mechanisms.

In the area of the operation of the transmission system, the Czech Government ***does not agree with the establishment of regional operational centres***. According to the Government, just-approved or recently approved network codes and guidelines are being interfered with and, moreover, there will be a curtailment of the sovereignty of Member States in the area of security of supply, because decisions are transferring from the national level to the regional level, and may ultimately lead to a deterioration in the situation of final consumers in terms of reliability of supply in each Member State. In connection with regional operating centres, the Government also has reservations in the area of provision of support services.

The Government supports the strengthening of the role of distributors as neutral ‘facilitators’ when it comes to dealing with data in relation to other electricity market actors. The Government has a negative view of the proposals to prohibit distributors, a priori, from owning or operating an accumulation facility. With regard to recharging points for electric vehicles, according to the Government distributors should be forbidden from operating public recharging points, and they should be allowed to own and operate recharging points for their own needs. The Czech Government is further of the opinion that tariffs for the use of networks should reflect the energy savings from distributed electricity production (it should be possible to apply lower tariffs for the use of networks for the generation of electricity connected to the distribution system). The Czech Government rejects the proposals for detailed principles for regulating and setting tariffs in the case of the DSOs.

The Government notes that it is proposed to transfer a number of issues to ***Commission delegated acts***, and fears that there will be insufficient transparency and engagement from Member States.

Regarding the creation of risk-preparedness plans at the regional level by a top-down system, the Government is of the opinion that it this might constitute a danger for the individual Member States in terms of the removal of national specifics and risks. The Czech Republic requests that Member States have the possibility to define risks from the perspective of national conditions. The Czech Republic supports drawing up a methodology to determine electricity crisis scenarios at a regional level via ENTSO-E. The Government proposes limiting the scope of consultations over national plans only to, say, neighbouring states, and to consult the whole region only over regional plans. The Government points out that it is necessary to carefully consider ***the scope of the information to be published with regard to the high vulnerability of the sector***. The Czech Government understands the need to keep plans up-to-date, but considers the requirement of annual testing to be unnecessary. In conclusion, the Government believes that most of the deadlines are too short and considers it important to set realistic deadlines.

The position of the Czech Government on the proposal for a Regulation establishing an EU Agency for the Cooperation of Energy Regulators:

The Czech Government supports the clarification of ACER’s competences in the area of oversight of pan-European bodies, and also supports the modification of the process for

approving methodologies and conditions adopted on the basis of network codes and framework guidelines. The Czech Republic also supports the intention to create regional formats within the Council of Regulators. The Government draws attention to the amendment of the Regulation defining the competence of ACER to decide on regulatory issues over which no agreement has been reached by the national regulators concerned, and to changes in the distribution of powers between the individual ACER bodies (changes in the powers and competencies of the Agency are, from the perspective of the Czech Republic, only permissible if the system of checks and balances within the Agency is maintained or improved). The Czech Government has expressed its opposition to the proposed change to the voting system in the Council of Regulators (a simple majority instead of the current two-thirds majority). The Government points out that, in the course of the discussions, it is necessary to ensure that a simple majority is not supplemented by the voting rights relating the size of the Member State (until now, each Council member has had one vote), and points out that the larger Member States might be inclined to such a proposal (the rule of the equality of votes of the Member States ensures the protection of the smaller Member States).

- **Expected timetable for consideration of the proposal by the European institutions**

The proposals were presented at the end of November 2016. The guarantee committee for proposals in the European Parliament is the Committee on Industry, Research and Energy (ITRE). Krišjanis Karins was appointed the rapporteur for the proposal for a Regulation on the internal market in electricity and for the proposal for a Directive on common rules for the internal market in electricity. The proposal for a Directive on common rules for the internal market in electricity will be considered by the Committee on the Environment, Public Health and Food Safety of the EP (ENVI), where the rapporteur is Pavel Poc. The rapporteur for the proposal for a Regulation on risk-preparedness in the electricity sector will be Flavio Zanonato in the ITRE Committee, the rapporteur for the proposal for a Regulation establishing an EU Agency for the Cooperation of Energy Regulators will be Morten Helveg Petersen in the ITRE Committee. This proposal will also be considered by the EP Budgetary Committee (the rapporteur will be Jens Geier). Other committees of the EP have also expressed their intention to consider these proposals.

The first policy debate on the whole package took place at an extraordinary Energy Council meeting that was held on 27 February 2017 in Brussels.

Regarding the proposal for a Regulation on risk-preparedness in the electricity sector, the deadline for the submission of a reasoned opinion passed on 8 March 2017 due to an inconsistency with the subsidiarity principle. In the case of the proposal for a Regulation establishing an EU Agency for the Cooperation of Energy Regulator, the deadline passed on 6 April 2017. Reasoned opinions to the proposal were sent by the French Senate, the German Bundestag and the Romanian Senate. For the other two proposals, the deadline is still running and will pass on 9 May 2017 (for the Directive) and 17 May 2017 (for the Regulation). In the case of the proposal for a Regulation on the internal market in electricity, certain countries expressed dissenting opinions (from Poland), and reasoned opinions have so far been sent by the German Bundestag and the German Bundesrat.

- **Conclusion**

European Affairs Committee

1. discussed the proposal for a Regulation on the internal market in electricity (recast), the proposal for a Regulation establishing an EU Agency for the Cooperation of Energy Regulator (recast), a proposal for a Directive on common rules for the internal market (recast), and a proposal for a Regulation on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC;
- 2 supports the framework position of the Czech Government in the main points (dated 6 March 2017, 7 March 2017 and 8 March 2017),

March stresses the right of Member States to security of supply, to establish the conditions for the use of their energy resources, to select them and to determine the composition of energy supply, and in this context, draws attention to the limits in the energy field of primary EU law;

4. welcomes the measures to strengthen the position and protection of consumers in the electricity market;
5. draws attention to the need to ensure that all the measures aimed at the transformation of the energy system in the EU during the 2020-2030 period are implemented in a cost-effective manner, in particular with regard to the final consumers, both industrial enterprises and households;
6. takes note of the need to strengthen solidarity and regional unity between EU Member States in the field of energy security – while also noting that this must not unreasonably suppress competition;
7. is of the opinion that *the proposal for a Regulation of the European Parliament and of the Council on the internal market in electricity (recast) (COM(2016)0861) is contrary to the principles of subsidiarity and proportionality, and adopts in relation to it, on the basis of Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality annexed to the Treaties, the reasoned opinion with the following reasoning:*
 - The Committee for European Affairs believes that the regulation would lead to the transfer of decision-making powers (powers of the regional operational centres, the newly established powers of the Commission) to EU level that do not need to be coordinated at EU level in view of the fact that the current national/regional implementation is sufficient to achieve the objectives.
 - In this regard, the European Affairs Committee draws attention to Resolution No 371 of the Economics Committee of the Chamber of Deputies of the Czech Parliament from the 49th meeting of 22 March 2017 on the Winter Energy Package, when the Economics Committee said that it considered the proposal for a Regulation on the internal market in electricity (recast) (COM(2016)0861) to be essential, ‘establishing a regional operating centre for the cooperation of transmission system operators, since it sees the risk of violation of the principle of subsidiarity because the regional

operational centres are to assume part of the decision-making authority of the Member State in matters of ensuring security of electricity supply, and it believes that the proposal for a Regulation on the electricity market is at variance with the principle of proportionality since the measures contained in the proposal for a Regulation are not proportional to the objectives to be achieved.’

8. authorises the Chair of the Committee on European Affairs, in accordance with the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic, to forward this Resolution, through the Speaker of the Chamber of Deputies, to the Government of the Czech Republic, the Speaker of the Senate, the President of the European Parliament, the President of the Council and the President of the European Commission;
9. authorises the Chair of the Committee on European Affairs to forward this Resolution for the information of the Economics Committee of Chamber of Deputies of the Parliament of the Czech Republic.

Josef Šenfeld (signed)
Verifier

Jan Zahradník (signed)
Rapporteur

Igor Jakubčík (signed)
Vice-Chair