INTERNAL ENERGY MARKET

In order to harmonise and liberalise the EU’s internal energy market, measures have been adopted since 1996 to address market access, transparency and regulation, consumer protection, supporting interconnection, and adequate levels of supply. These measures aim to build a more competitive, customer-centred, flexible and non-discriminatory EU electricity and gas market with market-based supply prices. In so doing, they strengthen and expand the rights of individual customers and energy communities, address energy poverty, clarify the roles and responsibilities of market participants and regulators and address the security of the supply of electricity, gas and oil, as well as the development of trans-European networks for transporting electricity and gas. Since the Russian invasion of Ukraine and the resulting energy crisis, the structure of the EU energy market has been undergoing profound structural changes.

LEGAL BASIS

Articles 114 and 194 of the Treaty on the Functioning of the European Union.

OBJECTIVES

In the energy sector, completion of the EU’s internal market requires: the removal of numerous obstacles and trade barriers; the approximation of tax and pricing policies and measures in respect of norms and standards; and environmental and safety regulations. The objective is to ensure a functioning market with fair market access and a high level of consumer protection, as well as adequate levels of interconnection and generation capacity.

ACHIEVEMENTS

A. Liberalisation of gas and electricity markets

During the 1990s, when most national electricity and natural gas markets were still monopolies, the European Union and the Member States decided to open these markets gradually to competition.

The First Energy Package was adopted between 1996 and 1998. It consisted of a first liberalisation of the electricity and gas national markets based on the introduction of two new electricity and gas directives, to be transposed into Member States’ legal systems by 1998 and 2000 respectively.
The Second Energy Package was adopted in 2003, with its directives to be transposed into national law by Member States by 2004, and some provisions entering into force in 2007. Industrial and domestic consumers were now free to choose their own gas and electricity suppliers from a wider range of competitors.

The Third Energy Package was adopted in 2009, further liberalising the internal electricity and gas markets. It introduced several reforms, such as the separation of energy supply and generation from the operation of transmission networks (unbundling), requirements for independent regulators, a new European agency for the cooperation of different national energy regulators (ACER), European networks for transmission system operators for electricity and gas (ENTSO-E and ENTSO-G) and enhanced consumers’ rights in retail markets. The package provided the cornerstone for the implementation of the internal energy market.

The Fourth Energy Package was adopted in 2019 and consisted of one directive (Electricity Directive (EU) 2019/944) and three regulations (Electricity Regulation (EU) 2019/943, Risk-Preparedness Regulation (EU) 2019/941 and EU Agency for the Cooperation of Energy Regulators (ACER) Regulation (EU) 2019/942). It introduced new electricity market rules for renewable energies and for attracting investments. This provided incentives for consumers and introduced a new eligibility limit for power plants to receive subsidies as capacity mechanisms. It required Member States to prepare contingency plans for potential electricity crises and increased ACER’s competences for cross-border regulatory cooperation in cases involving a risk of national and regional fragmentation.

The Fifth Energy Package ‘Fit For 55’ was published in 2021 with the aim of aligning the EU’s energy targets with the new European climate ambitions for 2030 and 2050. After Russia’s invasion of Ukraine in February 2022 and the complete cutting off of its gas supply to Europe, the EU decided to rapidly phase out all Russian fossil energy imports, introduce energy-saving measures, diversify its energy imports, adopt exceptional and structural measures in electricity and gas markets and accelerate the introduction of renewables.

B. Further steps

As announced in the Energy Union strategy, in order to give consumers secure, sustainable, competitive and affordable energy, the Commission put forward the Clean Energy for all Europeans package, in 2016. The Fourth Energy Package, currently in force, implements the Energy Union, covering energy efficiency, renewable energy, the design of the electricity market, security of electricity supply and governance rules for the Energy Union. To complete the internal energy market, the Commission adopted measures in the Electricity Directive, Electricity Risk-Preparedness Regulation and the ACER Regulation.

The regulation on the internal electricity market (Regulation (EU) 2019/943) revises the rules and principles of the internal electricity market in order to ensure its proper functioning and competitiveness. It supports the decarbonisation of the EU’s energy sector, removes barriers to cross-border trade in electricity and enables the EU’s transition to clean energy, honouring the commitments made in the Paris Agreement. The regulation defines a set of market-based principles for the operation of electricity
Markets: prices will be formed on the basis of demand and supply; customers will benefit from market rules and will be active market participants; incentives for decarbonised electricity generation will be market-based; barriers to cross-border electricity flows will be progressively removed; producers will be directly or indirectly responsible for their electricity sales; and the new conditions under which Member States could set up capacity mechanisms and the principles for their creation will be set out.

The Directive on common rules for the internal market in electricity (Directive (EU) 2019/944) focuses on the Member States and consumers, defining a set of different provisions that put the consumer at the centre of the clean energy transition. Suppliers are free to determine the price at which they supply electricity to customers. The Member States ensure market-based price competition between suppliers; protection of energy-poor and vulnerable household customers; and entitlement for final customers to electricity provided by a supplier, subject to the supplier’s agreement, regardless of the Member State in which the EU-compliant supplier is registered. Consumers are able to request the installation of smart electricity meters at no additional cost; household customers and microenterprises have access, free of charge, to at least one tool comparing the offers of suppliers, including offers for dynamic electricity price contracts; to switch suppliers free of charge within a maximum of three weeks and to participate in collective switching schemes. End consumers with smart meters are able to request dynamic electricity pricing contracts with at least one large supplier; they have the right to act as active customers, for example by selling self-generated electricity, without being subject to disproportionate or discriminatory technical requirements, and to have summarised clear contractual conditions.

On 14 March 2023, the Commission proposed a reform of the electricity market design, notably the Electricity Regulation, the Electricity Directive, and the REMIT Regulation (EU) No 1227/2011. The proposal introduces measures to incentivise longer-term contracts with non-fossil power production, access to renewables for industry, rules on sharing renewable energy, long-term contracts for consumers, new support schemes for demand response and storage, the protection of vulnerable consumers in arrears from disconnection, the extension of regulated retail prices to households and SMEs in the event of a crisis, and obligations for Member States to establish suppliers of last resort.

The regulation on risk-preparedness in the electricity sector (Regulation (EU) 2019/941) strengthens risk-preparedness by encouraging cooperation between transmission system operators in the EU and neighbouring countries and ACER. It also aims to facilitate the cross-border management of electricity grids in the event of an electricity crisis through the new regional operating centres, which were introduced in the related internal electricity market regulation. The European Network of Transmission System Operators for Electricity (ENTSO-E) develops and proposes a common methodology for risk identification in cooperation with ACER and the Coordination Group for Electricity, to be approved by ACER. The regulation proposes common rules on preventing and preparing for electricity crises to ensure cross-border cooperation and on crisis management, common methods to assess risks related to security of supply.
and a common framework for the evaluation and monitoring of security of electricity supply.

The directive on common rules for the internal market in natural gas (Directive 2009/73/EC) introduces common rules for the transmission, distribution, supply and storage of natural gas with the objectives of providing market access and enabling fair and non-discriminatory competition. It concerns natural gas, liquefied natural gas (LNG), biogas and gas from biomass. EU countries were required to unbundle transmission systems and transmission system operators from integrated energy companies, meaning that companies active in the production or supply of gas or electricity cannot exercise any rights over a transmission system operator, and vice versa. EU countries or the competent regulatory authorities are responsible for organising a system of non-discriminatory third-party access to transmission and distribution systems based on published tariffs.

The regulation on conditions for access to the natural gas transmission networks (Regulation (EC) No 715/2009/EC) lays down rules for access to natural gas transmission networks, gas storage and LNG facilities. The regulation determines how tariffs for access to networks are set; the services to be offered; the allocation of capacity to gas transmission system operators (TSOs); transparency requirements and balancing rules; and imbalance charges on the market. EU countries or the competent regulatory authorities are responsible for organising a system of non-discriminatory third-party access to transmission and distribution systems based on published tariffs.

The debate on the energy aspects of the Fifth Energy Package initially took place in the context of high energy prices driven by the post-pandemic recovery. In July 2021, the Commission published the first part of the ‘Fit For 55’ package, which aimed to achieve greenhouse gas emission reductions of at least 55% and a climate-neutral Europe by 2050. In December 2021, the Commission proposed a revision (COM(2021)0803, COM(2021)0804 and COM(2021)0805) of the Gas Directive 2009/73/EC and the Gas Regulation (EC) No 715/2009, which establish the regulatory framework for competitive decarbonised gas markets. The proposals include the design and development of the new EU hydrogen market and a new regulation on reducing methane emissions in the energy sector. The debate on the Fifth Energy Package changed radically after the Russian invasion of Ukraine and the ensuing energy crisis, which resulted in Russia unilaterally turning off the gas supply from Russia to EU Member States and extremely high gas and electricity prices in Europe.

Reacting to the escalating world energy crisis, the EU put forward several proposals for profound structural changes to its energy markets. In March 2022, the Commission’s communication on REPowerEU immediately stated the EU's intention to phase out its dependency on Russian fossil fuels. In May 2022, the REPowerEU plan put forward additional actions to save energy, diversify supplies, increase security of energy supply and replace fossil fuels by accelerating the roll-out of renewable energy. In July 2022, the Commission proposed new rules on coordinated demand reduction measures for gas and published a communication entitled ‘Save gas for a safe winter’. Council Regulation (EU) 2022/1369 on coordinated demand reduction measures for gas set a voluntary (mandatory in case of emergency) 15% target for reducing Member States’ gas consumption between 1 August 2022 and 31 March 2023, and entered into force.
on 9 August. In September 2022, the Commission proposed a new Council regulation on an emergency intervention to address high energy prices and reduce energy bills for European citizens and businesses. Between September and December 2022, the Council adopted three exceptional temporary market measures: a voluntary overall reduction target of 10% of gross electricity consumption between 1 December 2022 and 31 March 2023 and a mandatory reduction target of 5% of electricity consumption in peak hours; a market revenue cap at 180 euro/MWh for electricity generators using renewables, nuclear and lignite; and a mandatory temporary solidarity levy for the fossil fuel sector.

C. Energy market regulation: the EU Agency for the Cooperation of Energy Regulators

The EU ACER was created in 2009 and has been operational since March 2011. ACER is mainly responsible for promoting cooperation between national regulatory authorities at regional and European level and for monitoring the development of the network and the internal electricity and gas markets. It also has the competence to investigate cases of market abuse and to coordinate the application of appropriate penalties with the Member States.

In June 2019, the Commission adopted the ACER Regulation (EU) 2019/942 to reform ACER to recast legal acts and strengthen its main role as a coordinator of the action of national regulators, especially in those areas where fragmented national decision-making on issues with cross-border relevance would lead to problems or inconsistencies for the internal market. ACER’s duties in the field of wholesale market supervision and cross-border infrastructure have been increased in order to give it more responsibility in elaborating and submitting the final proposal for a network code to the Commission and in influencing the regional electricity market (bidding zone) review process, laid down in the recast of the electricity Regulation (EU) 2019/943. The ACER regulation introduces fees as an additional source of funding to cover the costs of REMIT-related activities (‘REMIT fees’) performed by ACER. On 15 July 2020, the Commission’s DG for Energy and ACER presented a proposal for a fee structure. On 17 December 2020, the Commission adopted Decision (EU) 2020/2152 on fees, which aims to cover the expenses for the operations such as collecting, handling, processing and analysing information performed by ACER.

As a further step, in 2009 the European Union created structures of cooperation for electricity and gas European Network Transmission Systems Operators (ENTSOs) via Regulation (EU) 2019/943 and Regulation No 715/2009/EC. The ENTSOs, together with ACER, create detailed network access rules and technical codes, and ensure the coordination of grid operation through the exchange of operational information and the development of common safety and emergency standards and procedures. ENTSOs are also responsible for drafting a 10-year network investment plan every two years, which are then in turn reviewed by ACER.

In addition, Regulation (EU) 2016/1952 improves the transparency of gas and electricity prices charged to industrial end-users by obliging Member States to ensure that these prices and the pricing systems used are communicated to Eurostat once or twice a year, while Regulation (EU) No 1227/2011 on wholesale energy market integrity and
transparency (REMIT) aims to guarantee fair trading practices on European energy markets.

D. Security of the supply of electricity, natural gas and oil

Regulation (EU) 2019/941 on risk-preparedness in the electricity sector establishes measures aimed at safeguarding the security of electricity supply to ensure the proper functioning of the internal market for electricity, an adequate level of interconnection between Member States, an adequate level of generation capacity, and balance between supply and demand.

Regulation (EU) 2018/1999 on the governance of the Energy Union sets an electricity interconnection target of at least 15% by 2030, defined as import capacity over installed generation capacity of EU countries.

Regulation (EU) 2017/1938 on security of gas supply establishes measures aimed at safeguarding the security of gas supply to ensure the proper and continuous functioning of the internal market in natural gas, by allowing for exceptional measures in the event of emergencies related to gas supplies, including solidity measures, the coordination of planning, and strengthening prevention and crisis response mechanisms. This regulation was revised between March and June 2022, after Russia’s invasion of Ukraine and the following weaponisation of its gas supplies. The EU introduced mandatory gas storage filling targets and trajectories, requiring EU countries to fill their gas storage facilities to 80% of their capacity by 1 November 2022 and to 90% in the following years.

Regulation (EU) 2022/2576 enhances energy solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks. It provides a legal framework for the EU Energy Platform to support EU countries in the preparation for the winter of 2023-2024 and, in particular, in the filling of their gas storage facilities.

Directive 2009/119/EC aims at ensuring security of oil supply, obliging Member States to maintain minimum oil stocks, corresponding to 90 days of average daily net imports, or 61 days of average daily inland consumption, whichever of the two quantities is greater.

The scope of application of the Gas Directive 2009/73/EC extends to future gas pipelines to and from non-EU countries, with derogations for existing pipelines. Special provisions exist under Directive 2013/30/EU on the safety of offshore oil and gas operations.

E. Trans-European Networks for Energy (TEN-E)

TEN-E is a policy focused on linking the energy infrastructure of the Member States. As part of the policy, eleven priority corridors (three for electricity, five for offshore grids and three for hydrogen) and three priority thematic areas (smart electricity grid deployment, smart gas grids, and a cross-border carbon dioxide network) have been identified.

The TEN-E Regulation (EU) 2022/869 lays down guidelines for trans-European energy networks, identifying projects of common interest (PCIs) among EU countries, projects of mutual interest (PMIs) between the EU and non-EU countries, and priority projects
among trans-European electricity and gas networks. It ended support for new natural gas and oil projects and introduced mandatory sustainability criteria for all projects.

New PCIs for energy and cross-border renewable energy projects are funded by the Connecting Europe Facility 2021-2027 for Energy (CEF-E), a funding instrument with a 7-year budget of EUR 5.84 billion allocated in the form of grants managed by the Climate, Infrastructure and Environment Executive Agency. Between 2014 and 2020, a total CEF-E budget of EUR 4.8 billion financed 149 energy cross-border infrastructure actions in 107 PCIs in 8 priority corridors. The Commission establishes the list of PCIs via a delegated act, which enters into force only if Parliament or the Council express no objection within a period of two months from its notification.

**ROLE OF THE EUROPEAN PARLIAMENT**

In adopting the legislative package on internal energy markets, Parliament has strongly supported transmission ownership unbundling in the electricity sector as the most effective tool to promote investment in infrastructure in a non-discriminatory way, fair access to the grid for new entrants, and transparency in the market. Parliament has also stressed the importance of a European common view of mid-term investments (indicative European 10-year plan focused on interconnections); greater cooperation between regulatory authorities, Member States and transmission system operators; and a strong process of harmonisation of network access conditions. On the initiative of Parliament, special importance was placed on consumer rights, which was part of the deal achieved with the Council: the resolutions insisted on increasing consumer rights (change of suppliers, direct information through smart meters and efficient treatment of complaints made to an energy ‘ombudsman’). Parliament also obtained recognition of the concept of ‘energy poverty’. It strongly supported the establishment of ACER, stressing that it had to be granted the necessary powers to overcome the issues that cannot be solved by national regulators and which hamper the integration and proper functioning of the internal market. Since Russia’s invasion of Ukraine, it has adopted several resolutions on phasing out Russian fossil fuels and on the ongoing energy crisis. Parliament has adopted the following key positions after the Russian invasion of Ukraine and the ensuing energy crisis:

— On 5 October 2022, Parliament adopted a [resolution](#) on energy prices, calling again for an immediate and full embargo on oil, coal, nuclear fuel and gas from Russia. It stressed to Member States that EU consumers who cannot afford their energy bills should not have their supply cut off and underlined the need to avoid evictions of vulnerable people unable to pay their bills and rent. It also called for an appropriate price cap for imports of pipeline gas, new measures to tackle speculation, a cap on revenues from so-called infra-marginal technologies used to produce electricity for the benefit of consumers and businesses, and tasked the Commission with analysing the decoupling of electricity and gas prices. Finally, it regretted the fact that the Commission had tabled many of its proposals in the form of a Council regulation instead of a European Parliament and Council co-decision procedure;
— On 19 May 2022: Parliament adopted a resolution on the social and economic consequences for the EU of the Russian war in Ukraine, calling on the Member States to urgently adopt the sixth package of sanctions. It reiterated its call for an immediate and full embargo on Russian imports of oil, coal, nuclear fuel and gas, and for Nord Stream 1 and 2 to be completely abandoned.

— On 7 April 2022: Parliament adopted a resolution calling for an immediate full embargo on Russian imports of oil, coal, nuclear fuel, and gas, for Nordstream 1 and 2 to be completely abandoned, and for a plan to be presented to continue ensuring the EU’s security of energy supply in the short-term;

— On 1 March 2022: Parliament condemned Russia’s illegal, unprovoked and unjustified military aggression against Ukraine, as well as Belarus’s involvement in this aggression. It called for the scope of sanctions to be broadened and for them to be aimed at strategically weakening the Russian economy and industrial base, especially the military-industrial complex. In particular, it called for a restriction on the import of key Russian export goods, including oil and gas.

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