EXTERNAL 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 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.

LEGAL BASIS

Article 194 and Article 114 of the Treaty on the Functioning of the European Union (TFEU).

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 liberalisation directives (First Energy Package) were adopted in 1996 (electricity) and 1998 (gas), to be transposed into Member States’ legal systems by 1998 (electricity) and 2000 (gas). 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 only in 2007. Industrial and domestic consumers were now free to choose their own gas and electricity suppliers from a wider range of competitors. In April 2009, a Third Energy Package seeking to further liberalise the internal electricity and gas markets was adopted,
amending the Second Package and providing the cornerstone for the implementation of the internal energy market. In June 2019, a Fourth Energy Package consisting of one directive (Electricity Directive (2019/944/EU) and three regulations: the Electricity Regulation (2019/943/EU), the Risk-Preparedness Regulation (2019/941/EU) and the Agency for the Cooperation of Energy Regulators (ACER) Regulation (2019/942/EU). The Fourth Energy package introduces new electricity market rules to meet the needs of renewable energies and to attract investments. It provides incentives for consumers and introduces a new limit for power plants to be eligible to receive subsidies as capacity mechanisms. It also makes it a requirement for the Member States to prepare contingency plans for potential electricity crises, and increases the ACER’s competences in cross-border regulatory cooperation when there is the risk of national and regional fragmentation.

B. Further steps

As announced in the Energy Union strategy (COM(2015)0080), in order to give consumers secure, sustainable, competitive and affordable energy, the Commission put forward a set of legislative proposals for a new EU energy market design on 30 November 2016. The ‘Clean Energy for all Europeans’ (COM(2016)0860) package aims to implement the Energy Union and covers 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 proposal for a directive on common rules for the internal market in electricity (COM(2016)0864) recasts Directive 2009/72/EC and focuses on the Member States and consumers:

— Suppliers will be free to determine the price at which they supply electricity to customers.

— The Member States will ensure market-based price competition between suppliers; protection of energy poor and vulnerable household customers; 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 will be able to request the installation of smart electricity meters at no additional cost; household customers and microenterprises will 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 will be able to request dynamic electricity pricing contracts with at least one large supplier; they will 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.
The Risk-Preparedness Regulation aims to strengthen risk-preparedness by encouraging cooperation between transmission system operators (TSOs) inside the EU, TSOs in neighbouring countries and the European Agency for the Cooperation of Energy Regulators. It also aims to facilitate the cross-border management of electricity grids in case of an electricity crisis through the new Regional Operating Centres, which were introduced in the related regulation on the internal electricity market (2019/943/EU). The European Network of Transmission System Operators for Electricity (ENTSO-E) will develop and propose a common methodology for risk identification in cooperation with ACER and the Coordination Group for Electricity, which will subsequently be approved by ACER. Four sets of measures have been proposed: (1) common rules on how to prevent and prepare for electricity crises to ensure cross-border cooperation; (2) common rules for crisis management; (3) common methods to assess risks related to security of supply; (4) a common framework for better evaluation and monitoring of security of electricity supply.

The regulation on the internal market for electricity (2019/943/EU) recasts Regulation (EC) No 714/2009 and revises the rules and principles of the internal electricity market in order to ensure its proper functioning and competitiveness. It also aims to support the decarbonisation of the EU’s energy sector and to remove barriers to cross-border trade in electricity. It will enable the EU to embark on its transition to clean energy, ensure that climate related legislation is adopted by 2030, and to honour the commitments made in the Paris Agreement. The regulation defines a set of market-based principles for the operation of electricity markets. More specifically: 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; new conditions under which Member States could set up capacity mechanisms and the principles for their creation will be set out.

On 19 October 2020, the Commission published its work programme for 2021, which includes revisions and initiatives linked to the European Green Deal climate actions. These, and in particular the Climate Target Plan’s 55% net CO₂ reduction target by 2030 (compared to 1990), are presented in the Fit for 55 package, which aims to achieve a climate-neutral Europe by 2050.

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

The European Agency for the Cooperation of Energy Regulators (ACER) has been operational since March 2011 (Regulation (EC) No 713/2009). ACER is mainly responsible for promoting cooperation between national regulatory authorities at regional and European level and for monitoring 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. The responsibility for applying sanctions applicable to infringements lies, however, in the hands of the Member States.
As a further step, two regulations were adopted, creating structures of cooperation for European Network Transmission Systems Operators (ENTSOs): one for electricity (Regulation (EC) No 714/2009) and one for gas (Regulation (EC) No 715/2009) amended by Commission Decision 2010/685/EU. 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, Directive 2008/92/EC seeks to improve 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 twice a year. In October 2011, the EU adopted Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT) aiming to guarantee fair trading practices on European energy markets.

In June 2019, the Commission adopted Regulation (2019/942/EU) 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. The list of tasks has therefore been updated to include ACER’s duties in the field of wholesale market supervision and cross-border infrastructure in order to give ACER 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 (2019/943/EU)).

The ACER Regulation (2019/942/EU) 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, DG 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.

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

Regulation (EU) No 2019/941 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. In light of the crucial importance of gas for the EU’s energy supply and as a response to the Russian-Ukrainian gas crisis during the winter of 2008-2009, Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply was adopted in 2010 and revised in 2017. The regulation aims to strengthen prevention and crisis response mechanisms. With the aim of ensuring a secure oil supply, Directive 2009/119/EC obliges 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. In response to concerns regarding the delivery of Russian
gas via Ukraine, the Commission released its Energy Security Strategy in May 2014 (COM(2014) 0330). The strategy aims to ensure a stable and abundant supply of energy for European citizens and the economy. It lays out measures such as increasing energy efficiency, promoting energy production within the EU, and completing missing infrastructure links to redirect energy to where it is needed during a crisis.

In May 2019, the Commission adopted a targeted revision of the 2009 Natural Gas Directive (2019/692/EU). This would make key provisions of the Gas Directive immediately applicable to cross-border gas pipelines with third countries, or more specifically, to those parts of the pipelines in EU territory. This would help to ensure that no current, planned and future gas infrastructure project between a Member State and a third country distorts the single market for energy or weakens security of supply in the EU.

In September 2020, the Commission announced that a new regulatory framework for competitive decarbonised gas markets will be developed in 2021. To this end, on 10 February 2021 the Commission launched a public consultation. This initiative is a response to the challenge of decarbonising gas networks, and proposes to revise EU gas rules to facilitate the market entry for renewable and low-carbon gases and remove any undue regulatory barriers.

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, nine priority corridors (four electricity corridors, four gas corridors and one oil corridor) and three priority thematic areas (smart grids deployment, electricity highways and a cross-border carbon dioxide network) have been identified.

**Regulation (EU) No 347/2013** lays down guidelines for trans-European energy networks that identify projects of common interest (PCIs) and priority projects among trans-European electricity and gas networks. PCIs for energy are funded by the Connecting Europe Facility for energy (CEF-E) – a funding instrument with a total budget of EUR 5.35 billion for the 2014-2020 period, of which EUR 4.8 billion is in the form of grants managed by the Innovation and Networks Executive Agency (INEA). In 2019, a total of EUR 556 million in CEF-E grants was allocated to eight PCIs, six in the electricity sector and two in the gas sector (see the list of 2019 CEF-E PCIs actions). The Commission establishes the list of PCIs via a delegated act, which enters into force only if Parliament or Council express no objection within a period of two months from its notification.

On 15 December 2020, the Commission adopted a proposal (COM/2020/824) to revise the TEN-E Regulation to better support the modernisation of Europe’s cross-border energy infrastructure and achieve the objectives of the European Green Deal.

**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 has strongly supported the establishment of ACER, stressing that it had to be granted the necessary powers to overcome those issues that cannot be solved by national regulators and which hamper the integration and proper functioning of the internal market.

Recent major resolutions:

— 10 July 2020: Parliament adopted a resolution on the revision of the guidelines for trans-European energy infrastructure, calling for these to be revised by the end of 2020.

— 15 January 2020: Parliament adopted a resolution on The European Green Deal, which stressed the importance of cross-border interconnections and of EU energy market integration in enhancing the security of energy supply, achieving a net-zero greenhouse gas economy, and highlighted the need to adequately fund the Agency for the Cooperation of Energy Regulators.


— 12 September 2017: new rules were adopted to allow neighbouring countries to help each other to manage gas crises, provide for cross-border solidarity and transparency of gas supply contracts.

— 2 March 2017: MEPs approved the rules requiring Member States to inform the Commission of their plans to negotiate energy supply deals with third countries before opening negotiations.

— 25 October 2016: Parliament supported a resolution for an EU strategy for liquefied natural gas (LNG) to make energy supplies more secure, cut carbon emissions and deliver affordable prices.

— 13 September 2016: Parliament’s resolution entitled ‘Towards a new energy market design’ advocates a combination of liquid short-term markets and long-term price signals, in order to make the market fit for a growing share of renewables and active consumers.

— 26 May 2016: Parliament’s resolution on delivering a new deal for energy customers calls for citizens to be empowered to produce, consume, store or trade their own renewable energy, to engage in the energy market and to participate in demand response.

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