

CEER Specialised Training on Legal Challenges in the Implementation of the Clean Energy Package and the European Green Deal Outlook

03-04 March 2020

CEER Office, Cours Saint-Michel 30a (5th floor), 1040 Brussels

COURSE PROGRAMME

The energy regulatory processes have been significantly influenced following the adoption of the "Clean Energy for All Europeans" Package (CEP) in July 2019. One of the aims of the new legislative package is to set the governance rules for the Energy Union and introduce a new market design. Despite the early preparations, National Regulatory Authorities (NRAs) still face numerous challenges in implementing the new legislative package. Some open issues still have to be solved and common understandings and approaches still have to be developed. Moreover, the new European Commission has already published its further plans – the European Green Deal proposal.

This CEER Specialised Legal Training will provide an overview of the new European Green Deal proposal and what it means for NRAs. The programme will address the new legal and regulatory challenges for NRAs after the implementation of the Clean Energy Package. The implementation challenges regarding some burning electricity topics, DSOs in the time of transition, the European decision-making processes regarding cross-border issues, the roles of NRAs and ACER will be presented and discussed. This training also focuses on the judicial review process of ACER's decisions, with the practical example from the latest appeal case of the ACER's decision at national level and the recent decisions of the European General Court and the European Court of Justice. The training finally addresses the new emerging legal issues for NRAs such as the role of gas and decarbonisation, digitalisation, the impact of Brexit, electricity and gas interconnectors, offshore wind and hybrid infrastructures.

Tuesday, 03 March 2020

10:30–17:30

WELCOME AND INTRODUCTION

10:30-10:45 Opening remarks and round-table introduction of the participants.

- **Ms Nadia Horstmann, BNetzA, Vice Chair CEER Legal Affairs Committee, Course Director**

10:45-11:45 **The European Green Deal – What does it mean for NRAs?**

- The European Green Deal and its new challenges for NRAs
- Milestones and action plans for CEER and NRAs and CEER advocacy strategy

- **Mr Jan Papsch, European Commission**
- **Ms Nadia Horstmann, BNetzA, Vice Chair CEER Legal Affairs Committee, Co-Chair CEER European Policy Unit**

Discussion/Q&A

SESSION 1 LEGAL CHALLENGES AFTER CEP IMPLEMENTATION

Since 1 January 2020, all provisions of the new Electricity Regulation (EU) 2019/943 have started to be applicable to the electricity markets and the provisions of the new Electricity Directive (EU) 2019/944 are on their way to be transposed into the national laws at the latest by 31 December 2020. The extensive challenges the TSOs and NRAs face are obvious. How are these challenges being handled? What lessons have been learnt so far? What can be still already improved?

11:45-12:45 Where are we in terms of implementing the CEP?

- Overview on burning electricity topics
 - 70% minRAM – action plans / derogations;
 - Bidding Zone assessment;
 - Revision of Network Codes and Guidelines (CACM2);
 - Nodal prices
 - Network development and enforcement
 - Regional Security Coordination
- **Mr Salvio Lanza, ARERA, CACM and FCA Task Forces Co-Chair**

Discussion/Q&A

Roundtable discussion or group work.

12:45-13:45 Lunch Break – CEER Office

13:45-15:15 Where are we in terms of implementing the CEP?

- DSO regulatory challenges in a new landscape and some emerging legal issues (unbundling rules related to storage, direct services to the consumers, data management, telecommunication and other services outside of the energy sector, etc)
 - EU DSO: a new institution: Insight into its new governance, tasks and challenges
- **Mr Daniel Bongart, BNetzA, DS WG**
 - **Mr Manuel Sánchez-Jiménez, European Commission**

15:15-15:30 Coffee break

SESSION 2 REGULATORY CHALLENGES FOR ACER AND NRAs

Good governance means a proper articulation between national, regional and European levels. Which decision-making mechanisms are the most suitable for the specificities of the European energy market? What are the regulatory challenges for the Agency for the Cooperation of Energy Regulators (ACER) and NRAs with the implementation of the CEP?

15:30-16:45 ACER and NRAs regulatory challenges

- Regulatory aspects concerning delegation of TSO tasks and competences to third parties
- Amendment of TSO TCM proposals by NRAs/ACER – scope and limits
- Decision-making process – Introduction of the procedural rights of the parties
- An interim practice-assessment of the updated Board of Regulators (BoR)-ACER Director relations (BoR right of amendment, active involvement of Working Groups)

- **Mr Ernst Tremmel and Mr Paul Martinet, ACER**

16:45-17:15 Roundtable and Discussion.

17:15-17:30 Wrap up of Day 1.

- **Ms Nadia Horstmann, BNetzA, Vice Chair CEER Legal Affairs Committee, Course Director**

17:30-18:30 Reception drinks – For those who wish to join, we will host a small drinks reception at the CEER office – all participants and lecturers welcome!

- END FIRST DAY -

Wednesday, 04 March 2020
09:00-16:00

SESSION 3 JUDICIAL REVIEW OF ACER DECISIONS

Binding legal acts are issued to ensure the proper implementation of the legislation in the energy sector. Some of these acts have an impact at a national level, whereas others are of a regional or pan-European nature. In this session, the discussion focuses on judicial review of ACER's decisions. What is the remedy? Who is entitled to the judicial review? What are the role and competences of the ACER's Board of Appeal in the review of ACER's decisions? How are the court's decisions implemented? A practical case study on the latest appeal case of the ACER's decision at national level and the European General Court's recent decisions will be presented and discussed.

09:00-10:15 Decisions of the ACER Board of Appeal and the European General Court and the European Court of Justice

- Role and decisions of the ACER's Board of Appeal (BoA) – Review of ACER/BoA's decisions.
 - Case study on the latest appeal case of the ACER's decision at national level.
 - Follow-up on the European General Court's decisions
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- **Mr Andras Szalay, ACER Board of Appeal**
 - **Mr Adrien de Hauteclocque, European Court of Justice**

Discussion/Q&A

10:15-10:30 Coffee break

SESSION 4 OTHER EMERGING CHALLENGES IN EUROPEAN ENERGY POLICY

New ambitious plans concerning climate (Decarbonisation package, European Green Deal), revision of the existing rules (TEN-E Regulation, Network Codes and Guidelines) frequently pop up. Whereas the implementation of the CEP is still ongoing, the market players have already looked forward and prepared themselves for a more complex and even more challenging reality. How do we translate the theoretical objectives into practice? What is the role of regulators in implementing the climate targets in the upcoming EU policies? Are there even more new tasks for NRAs, TSOs and other entities? CEER has recently published a Conclusion Paper on Dynamic Regulation to Enable Digitalisation of the Energy System and the Bridge Beyond 2025 Consultation paper identifying the main upcoming challenges for NRAs and stakeholders.

10:30-12:00 Gas and Digitalisation: What is coming up? – Green gases; adequate infrastructures; new business areas for a digitalised energy market.

- Digitalisation

- Ensuring effective price-signals,
- DSO and market-based flexibility
- Accessibility and data protection – challenge for unbundling rules?
- Innovation and sandbox regulation
- Decarbonisation / The Bridge Beyond 2025
 - Clear definitions and categorisation of decarbonised gases – setup of proper legal framework
 - Challenges for TSOs – infrastructure, investments, market entry, unbundling
 - New vision of storage
- **Mr Martin Crouch, Managing Director, 4D Economics**

Discussion/Q&A

12:00-13:00 Lunch Break – CEER Office

13:00-14:00 The Impact of Brexit on the EU Energy System

- Applicability of rules for security of electricity and gas supplies
- Impact on existing regulatory framework: interconnectors, trading, NRAs' cooperation
- **Mr Georg Zachmann, Bruegel**
- **Mr Geert Van Hauwermeiren, CREG**
- **Mr Nicolas Roger-Machart, Ofgem**

Discussion/Q&A

14:00-14:45 Electricity and gas interconnectors: An update.

- What is the current status of the electricity and gas interconnectors? What are the new challenges, including their applicable regimes?
- A case study: France–Ireland interconnector project: A speed-up in European energy transition?
- **Ms Claire Hellich-Praquin, CRE (tbc)**

Discussion/Q&A

14:45-15:00 Coffee break

15:00-15:45 Offshore wind & hybrid infrastructures – status quo

- Overview on Legal for Framework for a Meshed Offshore Grid
- Market and regulatory treatment overview
- Benefit from the hybrid projects
- Offshore connectors vs. interconnectors

- **Ms Ceciel Nieuwenhout, University of Groningen**

Discussion/Q&A

15:45-16:00 Wrap-up of Day 2.

- **Ms Nadia Horstmann, BNetzA, Vice Chair CEER Legal Affairs Committee,
Course Director**

- END SECOND DAY -