



CEER Specialised Legal Training

19-20 October 2022

Hybrid CLASSES:

Wednesday 19 October 2022 – 09:00-15:10 (CET)

Thursday 20 October 2022 – 9:30-16:15 (CET)

Level B: Specialised course

With the adoption of the “Clean Energy for All Europeans” package (CEP) in mid-2019, a new market design and a new set of governance rules were introduced, raising numerous challenges for National Regulatory Authorities (NRAs) in implementing this new framework. Subsequently, the European Commission (EC) adopted and published its plans under the umbrella of an ambitious and extensive “European Green Deal”, including and leading to various legislative proposals to deliver the decarbonisation of our energy systems, inter alia, the Fit for 55 package, the TEN-E Regulation revision, the EU Climate Pact and Climate Law, the Hydrogen and Decarbonised Gas Market Package proposals, etc. Alongside these proposals, several strategies have also been issued by the EC – such as the Strategies on Hydrogen, on Offshore Renewable Energy, on Energy System Integration, the recent Solar Strategy, etc.

More recently, the new geopolitical and energy market realities have led to the EC issuing the “REPowerEU Plan” and a host of subsequent initiatives including the Council Regulation on coordinated demand reduction measures for gas. Current geopolitical events are requiring all concerned parties to drastically accelerate the clean energy transition and increase Europe's energy independence (from unreliable suppliers and volatile fossil fuels).

These new developments bring not only new opportunities but also new regulatory challenges that make an adequate assessment and review necessary.

This CEER Specialised Legal Training will provide participants with an update on a selection of the above-mentioned European Energy regulatory developments with the aim to examine

the possible consequences for NRAs and their regulatory practice. The course also focuses on judicial and quasi-judicial reviews of administrative actions with an update on the European Court's energy cases.

Furthermore, some highly topical issues for NRAs will be presented and discussed, such as recent renewable energy developments (i.e. revision of the Renewable Energy Directive) and implementation challenges relating to evolving DSO tasks (demand response, EV, etc.).

Overall, this course offers an extensive overview for the legal staff of NRAs whose work focuses on the selected topical issues, while other staff members can gain valuable insight into the latest developments in EU energy legislation.

All sessions will allow time for Q&As, discussions and exchanges with trainers and other participants.

DAY 1 Wednesday 19 October 2022 – 10:00-16:45 (CET)

WELCOME AND INTRODUCTION

09:00-09:10 Opening remarks, introduction of the course and its format

Course Directors: Alexander Linov and Barbara Heremans, LAC Vice-chairs
Giulia Carpentieri, CEER Training and Programme Coordinator

**09:10-09:30 Roundtable: introduction of the participants
& warm-up session (icebreaker)**

SESSION 1 DEVELOPMENTS ON THE EUROPEAN ENERGY SCENE – WHAT ARE THE LEGAL AND REGULATORY CHALLENGES AND WHAT DOES IT MEAN FOR NRAS?

Following the communication of its ambitious and extensive “European Green Deal”, the EC announced and issued various legislative proposals which, inter alia, largely concern the energy sector, e.g. the TEN-E Regulation revision, the EU Climate Law, the Fit for 55 Package, the Hydrogen and Gas Market Decarbonisation Package (i.a. revision of Gas directive and regulation) etc. In addition, several strategies have been issued by the EC (such as a series of Strategies on Hydrogen, Offshore renewable energy, Energy sector integration, the Renovation Wave initiative, etc.). More recently, new geopolitical and energy market realities have led to the EC issuing the “REPowerEU plan”.

All these developments on the European energy scene give rise to many challenges for stakeholders and NRAs. This training session aims at providing an overview of the recent, ongoing and expected changes, novelties and their impact on regulatory practices *i.e.* from a legal perspective.

**09:30-10:30 Update on regulatory developments on the European energy scene –
Overview and state of play of legislative packages and strategies**

- Overview of the series of recent EU legislative measures and communications implementing the EU Green Deal, the European Climate Pact and Law, the Fit for 55 package, including the Hydrogen and Gas Decarbonisation Package, the REPowerEU legislative proposals, the revised TEN-E Regulation, the new Gas Storage Regulation, the Methane Strategy...
- What does it mean for NRAs? What are the challenges for NRAs? What are the legal issues to be aware of?
- Milestones and action plans for CEER and NRAs.

Oliver Koch, European Commission, DG ENER
Nadia Horstmann, Chair CEER European Policy Unit, BNetzA

Discussion/Q&A

10:30- 10:45 Coffee Break

10:45- 11:30 Debate with EC, EP, CEER representatives on questions from the audience

Oliver Koch, European Commission, DG ENER
Aleyda Hernandez Laviades, European Parliament, ITRE Committee
Nadia Horstmann, Chair CEER European Policy Unit, BNetzA

11:30-12:30 Networking Lunch for on-site participants and speakers

SESSION 2 SELECTED EU ENERGY FOCUS POINTS: HYDROGEN AND DECARBONISED GAS MARKET PACKAGE, REVISED TEN-E REGULATION, RENEWABLE ENERGY DEVELOPMENTS

Throughout 2021 and 2022, the EC adopted several legislative acts and strategies, and issued communications on different topics, including:

- the new Hydrogen and Decarbonised Gas Market Package
- the revised TEN-E Regulation
- the revised Renewables Directive

These also entail some new legal obligations and tasks for NRAs.

12:30-13:00 Hydrogen and Decarbonised Gas Market Package: current state of play and selected issues

In December 2021, the EC published a series of legislative proposals to review the Gas Directive and Gas Regulation, which enable the market to decarbonise gas consumption, and put forward policy measures required for supporting the creation of optimum and dedicated infrastructure, as well as efficient markets. It aims to remove barriers to decarbonisation and create the conditions for a more cost-effective transition. This session aims to give a more in-depth state

of play (and further outlook), inter alia, on the forthcoming Hydrogen regulatory framework.

Benoit Esnault, CRE - TBC

13:00 -13:30 Assessment of the revised TEN-E Regulation

In June 2022, the [revised TEN-E Regulation](#) laying down new EU rules for cross-border energy infrastructure was published in the Official Journal of the European Union, the new provisions entered into force on 23 June 2022 (and the first PCI list adopted under the new rules is expected in autumn 2023).

Anca-Iulia Cimpeanu, European Commission, DG ENER

13:30-14:00 Revision of the Renewable Energy Directive

Recap of developments since the proposal of July 2021, as part of the package to deliver on the EU Green Deal. [*to be completed with specific topics suggested by the lecturer*]

Leigh Hancher, Professor of European Law at the University of Tilburg and FSR

14:00-14:15 Coffee Break

SESSION 3 ENERGY CRISIS MEASURES: LEGAL CHALLENGES

This very topical session will dive into recent Energy Crisis measures and related legal challenges, and will among others tackle short-term measures such as price caps, use of congestion rents, hedging, state aids, etc.

The session will also touch on the Council Regulation on coordinated demand reduction measures for gas (the “emergency procedure”) and in particular the legal obligations and tasks for NRAs.

14:15-15:00 Emergency (short term) measures: price caps, use of congestion rents, hedging, state aids, etc.

- Public interventions on energy in the price setting for the supply of electricity (art. 5. Electricity Directive):
 - What challenges emerged from high energy prices after the Covid-19 Pandemic and following the War in Ukraine, and their impact on consumers and industry? (e.g. Iberian Exception)
 - What role do regulators play?
 - How are different Member States complying with art. 5. of Directive 2019/944 requisites?

- Market conditions and fixed-term, fixed-price electricity supply contracts (art. 32. Electricity Directive):
 - Can suppliers legally terminate such contracts before their maturity? In which conditions?
 - Could legal frameworks be quickly adapted?
- Gas demand reduction measures: What does the new Council Regulation on coordinated demand reduction measures for gas (the “emergency procedure”) mean for Member States and NRAs?

Xx, European Commission, DG ENER (TBC)
Filipe Matias Santos, Head of Legal Department, ERSE

Q&A – Discussion on national experiences

15:00- 15:10 Discussion – Wrap-up of Day 1

Alexander Linov / Barbara Heremans

15:10 – 15:40 Reaching the European Parliament

16:00-17:00 Live “Bonus session”: on-site visit to the European Parliament (only for onsite participants) (TBC)

DAY 2 Thursday 20 October 2022 – 9:30-16:15 (CET)

SESSION 4 JUDICIAL REVIEW – EUROPEAN COURTS ENERGY CASES AND ACER BOARD OF APPEAL 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. This session starts with an overview of procedural aspects and questions of importance for NRAs and market participants concerning appeals at the European Courts. In the second part, the discussion focuses on judicial review by the European Courts with a presentation of selected cases concerning cases in the energy field. In addition, a practical case study will be presented and discussed.

09:30-10:00 EGC and ECJ procedural aspects and questions

Matthew Radley, Référendaire Chambers of the President, Court of Justice of the European Union

10:00-11:30 Update on the European General Court’s and European Court of Justice’s decisions in energy cases (as well as other major cases of relevance to NRAs)

Adrien de Hauteclocque, Head of Cabinet, President of the General Court at the Court of Justice of the European Union

Franck Lecomte, Référendaire, Court of Justice of the European Union

11:30-12:00 Coffee Break

12:00-12:45 Case study on the European General Court's decision concerning the Core capacity calculation methodology

Nawid Sadighi and Teelke Oldermann, Legal Advisors, BNetzA

Swedish case: judgment of the Swedish Administrative Court of Appeal Jönköpings concerning the tariffs setting

This case study covers a recent case concerning TSO tariffs setting, in which the Swedish Administrative Court of Appeal Jönköpings rendered a judgement concerning revenue caps. The setting of revenue caps by Ei for about 170 network companies, was appealed by 120 companies which led to a major court case (including a request by Ei for the Court to obtain a preliminary ruling from ECJ).

The case study will provide an in-depth analysis and a discussion on the consequences for NRAs.

Johan Roupe, Senior Legal Adviser, Ei

12:45 -13:00 Final Q&A and Discussion about session 4

13:00-14:30 Networking lunch for on-site participants and speakers

SESSION 5 SELECTED ISSUES RELATED TO CURRENT IMPLEMENTATION CHALLENGES – EVOLVING DSO TASKS

The Clean Energy package introduced various rules for DSOs to enable a competitive environment concerning several new technologies and products. This session aims at providing an overview of the practical implementation of the requirements and respective legal challenges. The session will focus on the following questions:

- How have member states designed the legal framework for the below-mentioned activities?
- How do DSOs implement the obligations?
- How do NRAs implement the rules?
- What are the main challenges?

14:30-15:45 Evolving DSO tasks, implementation of rules on:

- **aggregation of demand response by final customers**

- **operation of recharging points for electric vehicles (fulfilment of conditions for derogations)**
- **operation of energy storage facilities**
- **incentives for the use of flexibility in distribution networks (which specifications for flexibility services are NRAs establishing?)**

Rickard Venetjoki, E.ON
Xx, NRA

Q&A – Discussion on national experiences

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

Alexander Linov / Barbara Heremans, Course directors

16:00-16:15 Evaluation of the course and final goodbye!