

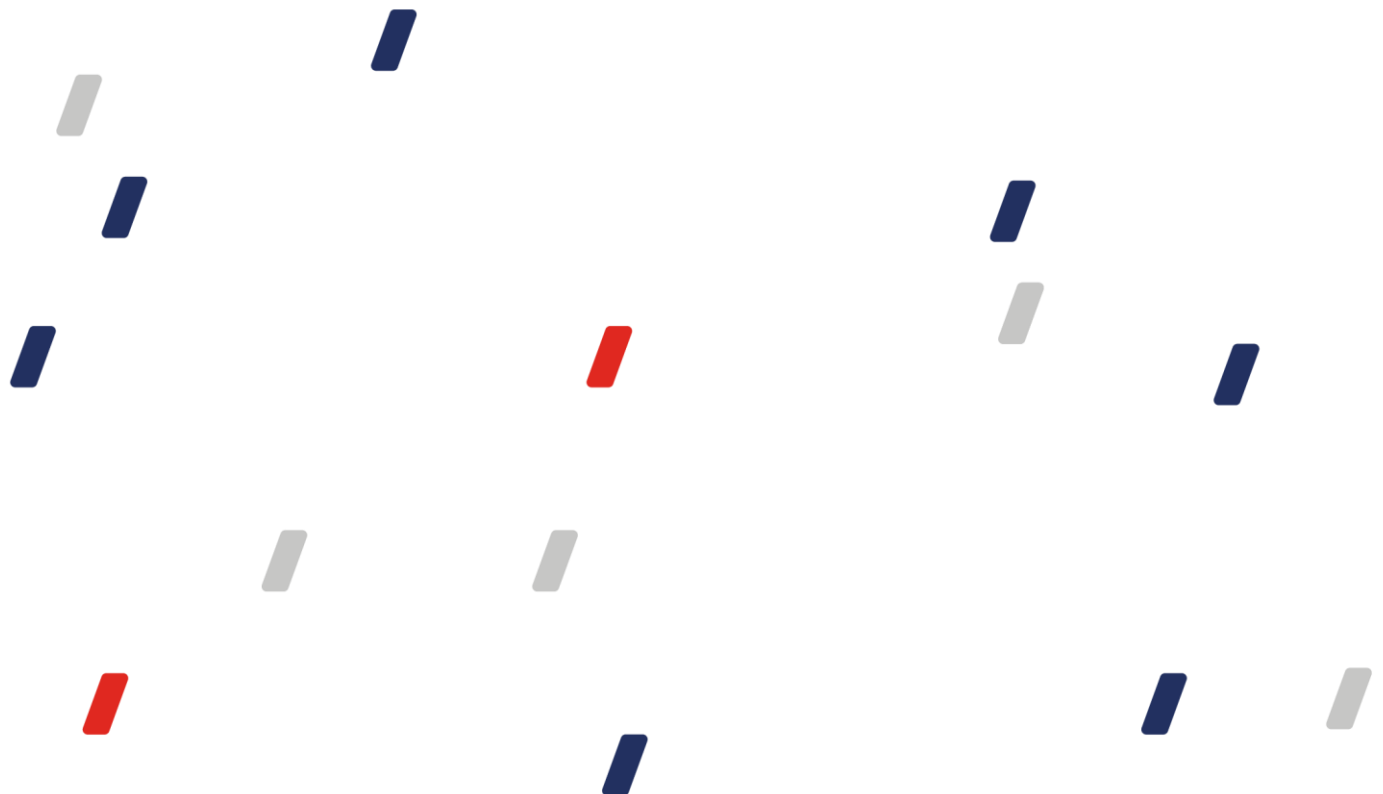
# COMBINED PUBLICATIONS

Report on the Activities and Finances of the Energy Regulatory Office

&

National Report of the Energy Regulatory Office on the Electricity and Gas Industries in the Czech Republic

**FOR 2021**



## CONTENTS

<b>CONTENTS</b> .....	<b>3</b>
<b>1 INTRODUCTION</b> .....	<b>4</b>
1.1 The ERO Board .....	4
<b>2 FOREWORD</b> .....	<b>5</b>
<b>3 DEVELOPMENT IN THE ENERGY MARKET AND CONSUMERS</b> .....	<b>7</b>
3.1 Electricity industry .....	7
3.2 The gas industry .....	7
3.3 The ERO's response to the energy market crisis .....	7
3.3.1 Advice .....	8
3.3.2 Prevention and public education .....	9
3.3.3 Provision of informed third-party assistance .....	9
3.3.4 Talks with suppliers of last resort and the MIT .....	10
3.3.5 Addressing the social impacts .....	12
3.3.6 Talks with the Ombudsman and the Office for the Protection of Competition .....	12
3.3.7 International meetings .....	12
3.3.8 Talks with the financial sector .....	13
3.3.9 New consumer legislation for 2022 .....	13
3.3.10 The ERO's proposal for legislative changes .....	13
<b>3.4 Consumer protection in the Czech Republic</b> .....	<b>13</b>

## 1 INTRODUCTION

Under Section 17 (10) of the Energy Act, the Energy Regulatory Office (the ERO or Office) presents the Report on the Activities and Finances of the ERO for 2021 [annual report] to both Chambers of Parliament of the Czech Republic, the Czech Government, the European Commission (EC), and the Agency for the Cooperation of Energy Regulators (ACER). The ERO also presents its National Report on the Electricity and Gas Industries in the Czech Republic for 2021 [national report] to the EC, including ACER, and the Council of European Energy Regulators (CEER).

Under the Energy Act, the ERO has been operating as an administrative authority for regulation in the energy industries since 1 January 2001. The ERO regulates the electricity, gas, and heat supply industries and determines aid for supported energy sources (SES, or POZE in Czech). The ERO is headed by a five-member body, the Board, the members of which are appointed by the Czech Government for a predefined term of office.

This publication, combining the annual report and the national report for 2021, covers the same issues and data as in the preceding years. The content that is shared by both reports and essential for the national report is mainly concentrated in the first six chapters on, progressively, a summary of the development in the electricity and gas markets, including consumer issues (Chapter 3), the electricity industry (Chapter **Chyba! Nenalezen zdroj odkazů.**) and the gas industry (Chapter **Chyba! Nenalezen zdroj odkazů.**), REMIT (Chapter **Chyba! Nenalezen zdroj odkazů.**), and the international activities, including ACER's and CEER's working groups (Chapter **Chyba! Nenalezen zdroj odkazů.**). The remaining parts cover primarily the annual report's content important for experts in the Czech Republic (the heat supply industry and supported energy sources) and Czech national institutions, such as the chapters on the ERO's budget management, human resource management, and internal control.

### 1.1 The ERO Board

In 2021, Stanislav Trávníček (right) was the ERO Board Chairman, and (from left) Petr Kusý, Markéta Zemanová, Ladislav Havel, and Martina Krčová were the other members.



## 2 FOREWORD

Dear Readers,

The year 2021 was unprecedented in many respects. The heavy volatility in the European energy market gradually mutated into what we call the energy crisis today. The root cause consisted of a number of factors, more specifically their critical coincidence at a single moment. The rising prices of emission allowances in connection with the global economic recovery spurred by the easing of the anti-pandemic measures, and also the unfavourable natural factors reducing output from renewable energy sources certainly played their role. Russia was intentionally destabilising the EU's single energy market through expedient reductions in its gas supply from as early as mid-2021; its steps had profound impacts.

In the Czech Republic, the collapse of the companies in the BOHEMIA ENERGY entity Group was the most visible consequence of these developments. Although as late as 2021 the Group was reporting a profit after tax of more than CZK 600 million, the record surges in prices at the exchange combined with its risky business model resulted in the Group discontinuing, literally overnight, electricity/gas supply to approximately 900,000 customers in late 2021.

Suppliers of last resort immediately took over the customers for whom this Group and other companies ended energy supply during the autumn of 2021. Thus, nobody was deprived of electricity/gas supply and this safety net passed muster in this historical stress test. However, the problem was the price of this energy supply because the suppliers of last resort had to buy this energy on the spot market, which was extremely expensive at that moment.

As part of determining the cost-plus prices to be charged by the suppliers of last resort, the Energy Regulatory Office reduced, as early as during the initial discussions, the prices suggested by these suppliers by CZK 500/MWh on average. However, not even this reduction could prevent the prices from surging for the affected customers if the Office was to comply with the statutory conditions for cost-plus pricing, which guarantee suppliers of last resort the recouping of justifiable costs. At least short-term

assistance was provided to customers through an option to reduce their down payments temporarily on the basis of a memorandum initiated by the ERO and the Ministry of Industry and Trade. Nevertheless, this memorandum also stated that it was a temporary measure and only granted some time for activating the social system.

Although this was *not* the first ever collapse of a comparable size, the fall of such a big supplier naturally triggered debate on the role of the regulator and the options of supervision offered by the Energy Act as then in force and by the EU rules. The technical part of the discussions focused on the required legislative changes because in the unregulated part of the market, which also includes energy suppliers, the Energy Regulatory Office has only limited competences consisting mainly of consumer protection in cases specified by the law. However, the ERO is not allowed to interfere with suppliers' business strategy.

For illustration, in 2021 more than 22,000 consumers approached us for advice or help, i.e. twice the number in 2020. Moreover, the largest part of this increase was concentrated in the last quarter and entailed questions and requests for help related to migration to the supply of last resort and, subsequently, to standard products. We also greatly appreciate the help provided by the cooperating organisations, which were training in this issue from the very beginning: the call centre of the Ministry of Industry and Trade, employees of the Labour Office of the Czech Republic (*Úřad práce ČR*), members of the Czech Union of Towns and Municipalities, and a number of non-governmental, including consumers' organisations. The Office of the Public Defender of Rights (Ombudsman), among others, appreciated this often less visible work in the conclusions of its related inquiries.

In late 2021, the Energy Regulatory Office approached the newly appointed Government of the Czech Republic with a set of proposals for measures. The proposals, some of them also based on the experience of other countries' regulators, suggested certain legislative changes and the State's measures with a view to arresting the growth of energy prices and preventing additional suppliers from collapsing. In this respect, our effort continues also in 2022.

The Energy Regulatory Office did not deal with the crisis only. During the year, it issued a number of Price Decisions on the scheduled dates. As regards changes, worth mentioning is, primarily, the new Price Decision for the heat supply industry, which was issued in September and followed up on the 2020 Price Decision. Through these two Price Decisions, the current ERO Board has put in place a new underlying policy for the heat supply industry. In addition to boosting the transparency and fairness of pricing calculations, the policy also seeks to remedy the fundamental deficiencies of the preceding Price Decision, which had last been updated in 2013.

In the Price Decisions for the electricity and gas industries, which are fundamental for the size of the regulated component of energy supply prices, the Office managed to keep the increases below inflation, although during 2021 the energy exchange was already generating strong pressures for hiking certain regulated charges in which the prices of energy as a commodity are reflected. This result is also attributable to intensive talks with the Ministry of Industry and Trade and other ministries, which were running from the summer of 2021 when the Office detected the risk of the energy supply price's regulated component rising, with impacts mainly on large-demand industrial customers for electricity.

The passing of the 'intermediaries' amendment to the Energy Act by Czech Parliament was the highlight in the legislative area. Thus, in September 2021 the country adopted an amendment for which the Energy Regulatory Office had been calling and to the drafting of which it had been contributing since the spring of 2018. As the informal name of this amendment indicates, the law redefines the activities of intermediaries in the energy sector as business, including the required rules. Further to the effect of this

law, in 2022 a register of intermediaries is being developed and the Office is also gradually obtaining the required competences in supervision over a profession that has become notorious for massively damaging consumers' rights. However, the expected positive effects are being eroded by the fact that the significant extension of our duties, which will require a completely different type of supervision, is not accompanied by the required increase in our personnel capacities.

Mentioning the scope of the Office's agenda, the number of licences was 29,199 at the end of last year. At the same time, last year alone the Office handled 2,227 applications for licence grant or change. Thus, there is a continuous increase, and it will be further augmented by the development of distributed generation intended to reinforce the self-sufficiency and security of energy supply in the Czech Republic. In respect of the registration of intermediaries, the Office also expects to handle up to thousands of new applications, at least initially.

Dear readers, please accept my sincere thanks for your interest in the Energy Regulatory Office's operation, work, and results described in this Report.

Stanislav Trávníček  
ERO Board Chairman

## 3 DEVELOPMENT IN THE ENERGY MARKET AND CONSUMERS

### 3.1 Electricity industry

In 2021, the activities related to the development of the Czech electricity market continued, *inter alia*, in the context of the development of the EU's synchronous area. This effect was felt the most strongly in the spot electricity market, where Single IntraDay Coupling, completed in 2019/2020, also helped to complete Single Day-ahead Coupling and, partly, the interconnection of spot electricity markets within the European Economic Area. Thanks to a local project, with a working name of Interim Coupling, June 2021 saw the interconnection of the countries involved in Multi Regional Coupling (MRC) with the countries involved in 4M Market Coupling (4M MC), resulting in the elimination of explicit auctions on six national borders (PL-DE, PL-CZ, PL-SK, CZ-DE, CZ-AT, and HU-AT) and the replacement thereof with implicit allocations. Electricity sale/purchase and obtaining the required cross-border transmission capacity therefore take place at a single point for all the bidding zones involved and the relevant national borders. This is a historical milestone in electricity trading in the Czech Republic.

In the intraday electricity market organised by the market operator, 5,213 GWh of electricity was traded, i.e. up by approximately 17% on 2020. In 2021, the weighted average of the prices of electricity traded in the intraday market skyrocketed to EUR 106.09/MWh. At the end of 2021, 122 market participants had access to the electricity spot market (the figure was 119 in 2020).

### 3.2 The gas industry

In 2021, the Capacity4Gas project was put into operation; work continued on the Moravia Capacity Extension project and on the connection of new storage capacities of the Dolní Bojanovice UGS facility, owned by SPP Storage, s.r.o., to the Czech transmission system.

For the gas industry, the highlight of 2021 was the EC's initiative to introduce a legislative package significantly changing the European energy market in the context of its decarbonisation. The package primarily included the Proposal for a Regulation on the internal markets for renewable and natural gases and for hydrogen (recast), the Proposal for a Directive on common rules for the internal markets in renewable and natural gases and in hydrogen, and the Proposal for a Regulation on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942 (the Decarbonisation Package).

A total of 4,007 GWh of gas was traded in the within-day gas market organised by the market operator. In 2021, the weighted average of the price of gas traded in the within-day market shot up by 486% on 2020 to EUR 46.25/MWh. Towards the end of 2021, natural gas prices in the spot market even exceeded EUR 170/MWh. At the end of 2021, 115 market participants had access to the spot gas market (the figure was 104 in 2020).

In recent years, the prices in the Czech within-day gas market have been closely following the prices of comparable products in the German market area, Trading Hub Europe (THE within NCG), traded on the PEGAS platform operated by European Energy Exchange AG (EEX).

### 3.3 The ERO's response to the energy market crisis

Energy markets experienced unexpected developments in 2021. In the Czech Republic, one of the biggest energy suppliers, BOHEMIA ENERGY entity s.r.o., and then several other smaller suppliers discontinued their operation, which resulted in almost one million customers landing in the mode of the

supplier of last resort (SoLR). SoLR supply was accompanied by a surge in supply prices resulting from the currently high electricity and gas prices in the spot market. For illustration, in mid-2020, one MWh of gas was traded for EUR 12.45 in the Czech spot market, while in mid-2021 the price was as much as EUR 97.55, with electrical energy prices also rising in trading. However, the rising gas and electricity prices did not affect the SoLR customers only. Standard suppliers responded to the rising prices by changing their price lists or converting their products to spot products or by terminating contracts.

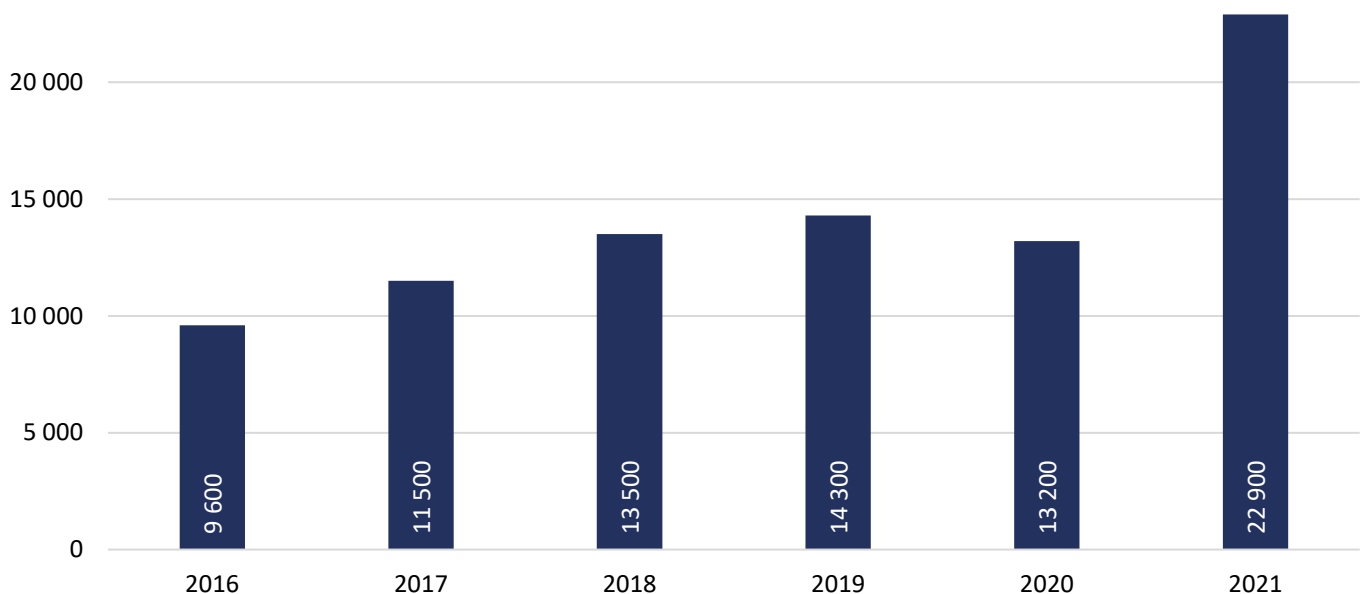
The Office addressed the energy market situation at multiple levels. Besides directly communicating with consumers, when it also started local cooperation with non-profit consumer organisations and self-governments whose representatives are the closest to consumers, it also suggested and consulted system measures with a number of stakeholders, including the State's institutions.

At the end of 2021, the Office informed the leaving and new cabinet members about the situation, offering a number of proposals for the current problems and system measures.

### 3.3.1 Advice

While in 2020 the Office received 13,200 submissions from consumers, their number almost doubled to 22,900 in 2021.

**Chart 1** Number of submissions from consumers



Source: ERO

At the expense of some other lines of its activity, the Office had to reinforce its personnel capacity heavily to be able to handle all the submissions from consumers (the number of telephone calls per day was more than ten times higher); the Office also used its other units' personnel (in addition to the Consumer Protection Unit) until the end of 2021, being aware that reinforcements in this line of activity would also be needed in 2022.

The Ministry of Industry and Trade (MIT) set up a special telephone line, which provided guidance in cooperation with the Office. The continuously updated and supplemented FAQ document posted on the



ERO's website also served for these purposes. The Office also organised quite a few training courses for counselling services and their staff, and for consumers themselves (see below).

Most of consumers' submissions requested advice for them on their correct approach to suppliers in their private-law cases (for more details see 3.4).

### 3.3.2 Prevention and public education

In addition to direct communication as part of advice provision, the Office reinforced its information channels on its website and the social media (Facebook, LinkedIn, and Twitter). On its website, it posted articles, advice, appeals, warnings, and a frequently visited FAQ document, which reflected consumers' submissions; naturally, some new questions would appear in large numbers because of the situation.

When the number of questions (in particular via e-mail) multiplied the Office put in place comprehensive automatic answers for the consumers to receive a response right away before obtaining a specific answer from an ERO employee; in many cases, such response could in fact be quite sufficient for the consumers, who could then continue to tackle their problems on their own only with their suppliers.

The Office also intensified its cooperation with the media on both technical and consumer issues. From August 2021, it released, through its communications, in particular the following:

- Warnings to customers whose suppliers were not behaving transparently (termination of contracts with prices fixed for a certain period);
- Advice on further steps for customers landing in the SoLR mode;
- Appeals to other customers and producers (to/from whom their trader had stopped selling/taking and who were not in the SoLR mode) to obtain new contracts in the market;
- Requests to the original suppliers to provide the data necessary for customers to switch to new suppliers;
- Alerts to the behaviour of 'energy scumbags' (in the social media, the Office released the *Ten Commandments of Defence against Energy 'Scumbags'* series and then a new series on *Unfair Practices in the Energy Sector*, both also posted on its website).

### 3.3.3 Provision of informed third-party assistance

It was obvious as early as the first quarter of 2021 that the number of consumers' submissions would continue to rise. In order to provide information to the general, both expert and lay public, in June the Office organised a press conference to present statistics on consumers' submissions and the actual problems addressed by consumers, including the tools and procedures for addressing them. The amendment to the Energy Act intended to regulate 'energy intermediaries' was a frequently discussed issue during the year. Thanks also to the ERO's effort, it was passed in October. The Office kept informing the public on a regular basis about the changes for consumers from 2022 caused by the progressive regulation of intermediation.

For non-profit organisations, consumer associations, and local self-governments' representatives the Office organised educational webinars (online seminars due to the need to respond to consumers' problems quickly, and also to the continuing restrictions caused by the COVID-19 pandemic) on current issues for them to be able to provide advice and information to their clients or to citizens and at their local chapters or workplaces. Thanks to regular cooperation, the attendees included representatives of the Czech National Disability Council's local chapters (e.g. Liberec and Olomouc), citizen counselling services (e.g. Pardubice and Rokycany), universities (Brno, České Budějovice, and Hradec Králové),

People in Need, the Czech Trade and Tourism Association, the Czech Union of Towns and Municipalities, and of many local self-governments.

On 22 October 2021, a few days after the fall of the suppliers in the Bohemia Energy Group, the Office held a separate dedicated press conference. It explained to the expert and lay public what had actually happened in the market and described the options for addressing the new situation for the various groups of customers. The press conference was then widely promoted in the media. During the autumn and winter, the ERO Board members appeared on many television and radio shows and round tables on the market situation and advice to consumers. It also held a press briefing on the current issues on 2 November 2021; it clarified the problems that had gradually emerged in connection with suppliers falling and their customers migrating to the SoLR mode.

In closer cooperation with self-governments, on 30 November 2021 the Office released a leaflet for the senior citizens who may have been in the SoLR mode at that time, but quite unaware thereof. The SoLR mode could last for no more than six months and so there was a need to identify ‘incommunicado’ customers and urge them to switch their supplier as soon as possible, including because of the high prices. On this occasion the Office also released a manual for local self-governments, consumer organisations, and counselling services, which were the closest to consumers, i.e. in the area of their residence.

November saw a second webinar on Consumer Protection in the context of the current energy situation. Then in December, two more webinars took place on *Help for SoLR Seniors, and Supplier Switching*. They focused on, among other things, the leaflet for senior citizens and a manual for those who could help them. In the light of the need for the webinars and the great interest in these issues in 2021, the Office planned additional webinars for 2022 on a broad array of topics for various target groups.

### **3.3.4 Talks with suppliers of last resort and the MIT**

From the October fall of several suppliers, the Office would call, several times every week, working groups attended by distributors, SoLR and, sometimes, other suppliers. Initially, the talks with distributors and suppliers were held separately but from November, they were held jointly, including the market operator.

The meetings addressed primarily the problems entailed in the transmission of customer data and in contacting the customers and producers who had lost their suppliers, the issue of the SoLR price levels and the related amounts of down payments, and many other issues of the current situation. In late 2021, the Office tackled the issue of the end of the SoLR mode for the first supply points (14 April 2022) and the customers who had not yet started to leave their SoLR. At the end of the six-month period, they would fall into illegal offtake and could be disconnected. The Office made a considerable effort in respect of, in particular, innogy to prevent this company from disconnecting – before the end of 2021 – final customers on account of their failure to pay advances: some of them may have failed to pay unintentionally, only because of their being unaware, or for social/financial reasons.

The meetings resulted in all parties taking a coordinated approach and in the timely identification and tackling of the problems that kept arising when large numbers of customers were being migrated to and then switching from a SoLR, or when they were migrating to a standard product at their SoLR.

#### **SoLR prices**

SoLR prices continued to be cost-plus prices in 2021, and therefore only economically justifiable costs and reasonable profit could be passed through into them. The price cannot be capped or reduced under

the cost level as the Czech legislation does not allow it (unlike, for example, the situation in Slovakia where the law still permits market price controls for households and SoLR). The SoLR prices were very high due to the high costs of the commodity, which was being bought at exchanges for extremely high prices.

The Office requested all SoLR to provide it with their methodology for calculating the prices of supply of last resort, and checked these methodologies every month. The meetings with SoLR also resulted in a reduction in certain items forming the resulting SoLR price. Thanks to the Office, prices were cut by units of per cent.

With suppliers, the Office agreed on a transparent publication of prices and information for customers; for example, also in the online price checkers, which gained importance for consumers at that time. The Office requested all suppliers to send their current price lists to the Office's online calculator, which helps consumers to compare quotations in the electricity market completely independently.

### **Down payments to SoLR**

In cooperation with the MIT and based on intensive talks with SoLR, the Office pushed through a reduction in down payments for all households: in November and December 2021, they could use a reduction of 50% and 40% respectively. The purpose was the quickest possible assistance to the people who were tackling surges in electricity and gas prices after the Bohemia Energy Group companies and other traders discontinued their energy supply. The reduction in the down payments that had to be paid softened the heavy social 'shock' and gave governmental institutions some time to prepare social assistance. Coordinating with the SoLR, the Office informed customers about the practical implementation of this relief.

### **Exiting the SoLR mode**

Based on the ERO's talks with the SoLR, suppliers reinforced their call centres. Communication had to be maintained with hundreds of thousands of customers motivated not only by the need to change their supplier within six months but also the lower prices of standard products compared with SoLR prices.

During the talks, the Office requested SoLR several times to maximise the speed of supplier switching from the SoLR mode. With all SoLR, it agreed on the option for customers to communicate via a web interface – a form for completing customers' contact details at their SoLR and a form supporting supplier switching over the internet.

### **Range of products: an appeal to all suppliers to widen their range of products**

In the first days, suppliers offered limited variants of products (e.g., only three-year periods with fixed prices). The Office repeatedly asked them to extend their products to include more variants of fixed-price fixed-term contracts and an offer of a product for an unlimited period. The pressure exerted by the Office made SoLR (under the hat of a standard supplier) and other suppliers offer a broader range of product variants. However, the Office had to make such requests repeatedly and it also discussed, as a precaution, this issue with the Office for the Protection of Competition from the perspective of potential abuses of the market situation.

### **Customer data transmission to the SoLR and distributors**

An initial problem, which nevertheless was resolved soon, was the Bohemia Energy Group companies' unwillingness to transmit their customer data to the SoLR and distributors. The Office even had to ring up

and remind the Bohemia Energy Managing Director, who eventually promised to start to transmit the data on 22 October 2021.

### 3.3.5 Addressing the social impacts

The Office warned of the high energy prices used in the calculation of the SoLRs' cost-plus prices. The cabinet had to begin addressing the potential social impacts. The Office has no competences in the social area but it attended the meetings with the MIT and the Ministry of Labour and Social Affairs (MoLSA) on the options to seek relief for customers affected by the high prices in the electricity and gas markets, especially as regards SoLR's price levels and down payments to SoLR, including the provision of the required data by the Office. The talks resulted in proposals for the MIT's measures and a housing benefit (the MoLSA laid the proposal before the cabinet in less than a month from the beginning of the crisis). Gradually, additional, rather minor supportive measures were put in place and the Office focused mainly on advising the consumers on the options for assistance provided by the State. However, it was obvious from the very beginning that *pro futuro*, system tools for helping vulnerable customers in the wake of the recurring energy price hikes would have to be sought. The Office is prepared to cooperate with the relevant ministries continuously in this respect, provide the required data, and continue to contribute to operational solutions within its competences. Exiting from the SoLR mode did not imply return to the original, autumn 2021 prices; it therefore became very clear before the end of the year that the cabinet would have to offer a comprehensive solution in this respect.

### 3.3.6 Talks with the Ombudsman and the Office for the Protection of Competition

The year saw several meetings with the Ombudsman, focused on the comprehensive nature of the Office's help for consumers. Naturally, this issue became much more prominent in the second half of the year as the changes and potential problems affected almost a million customers. Following his meetings with the Office, the Ombudsman noted in a press release that the Office was taking the right steps in consumer protection and was using all the options vested in it by the law.

In addition to the above-mentioned limitation of their range of products by suppliers, the talks with the Office for the Protection of Competition also dealt with the risk to competitiveness. The parties noted that the high prices did not *per se* imply any distortion of competition; similarly, the end of certain suppliers' business was more of a phenomenon associated with the working of the free liberalised market, which is the target set in the European and, in turn, national legislation.

### 3.3.7 International meetings

The Office attended scheduled and *ad hoc* ACER and CEER meetings (more details in Chapter **Chyba! Nenalezen zdroj odkazů.**), where the agenda also included the rising wholesale prices and their impact on retail trade and consumers. The Office continuously monitored the developments in other national markets and the approaches adopted by the European countries' regulators and governments, which were being progressively suggested and adopted with a view to mitigating the impacts of the crisis and to preventing such situations from recurring. One of the issues was also the fact that traders' activities could not be regulated. On the occasion of his visit to Prague, during a meeting with ERO representatives Christian Zinglensen, ACER Director, confirmed that the ERO's approach was correct in this respect: *"I am not aware of any of the European regulators overseeing the selection of a business strategy by a particular energy supplier or the way the supplier manages its risks and uses market opportunities. This is not a basic role for regulators."*

### 3.3.8 Talks with the financial sector

The Office initiated talks on the options for cooperation in the design of banking products for customers having problems paying the high energy prices. The cabinet's effort to prepare a system of MoLSA benefits will not cover all types of customers who may land in desperate straits and need to spread costs over time more than anything else.

The Office organised several meetings with the Czech Banking Association (CBA), Česká spořitelna (a savings bank), and the MIT. Unfortunately, because of their attitudes to the proposals, the talks with banks did not generate any specific solution for customers.

### 3.3.9 New consumer legislation for 2022

#### The ERO's public notice on billing

Two fundamental changes that would have a very direct bearing on consumers in practice from 1 January 2022 included the requirement to state the date of contract termination on the bill sent to consumers and the firmly fixed – for the first time – date for sending the bills, specifically within 15 days from the taxable supply. (See point **Chyba! Nenalezen zdroj odkazů.** for more amendments to the public notice on billing.)

#### The 'intermediaries' amendment to the Energy Act

As from 1 January 2022: it will be easier and free of charge to terminate contracts concluded via an intermediary; the required details of intermediation contracts have been redefined; the intermediary is obliged to inform the consumer that they are acting in the role of an intermediary; the term of the power of attorney is limited to no more than 12 months; there is a new obligation to deliver the contract in writing to the consumer without any delay.

As from 1 July 2022: a register of intermediaries will start to operate and the Office will oversee intermediaries' activities and address disputes arising from intermediation contracts; thus, the competences over energy intermediaries will completely pass to the Office.

### 3.3.10 The ERO's proposal for legislative changes

Stanislav Trávníček, ERO Board Chairman, outlined the ERO's proposals intended to address certain problems on 2 December 2021 at a meeting organised by *Institut pro veřejnou diskuzi* (Public Debate Institute) in a presentation on *The ERO's Proposals for Potential Amendments to the Legislation – Changes after the Crisis*. The ERO sent the first proposals of early December 2021 to government representatives at the end of the year and prepared the second batch of the proposals for January 2022. In addition to those for changes in the monitoring and operation of standard suppliers, the ERO's proposals also included changes to the SoLR mode.

## 3.4 Consumer protection in the Czech Republic

While in the first half of 2021 more than one half of the issues in consumers' submissions addressed by the Office concerned intermediation, in September 2021 complaints about suppliers' practices started to appear in response to the rising energy prices. Such practices entailed suppliers' effort to change unilaterally the content of the contract (frequently to spot products) or to terminate contracts with consumers, which were disadvantageous for the suppliers, for no good reason. Since each set of contract terms and conditions is different it was not possible to conclude each and every case by holding that the supplier's course of action was in breach of the respective contract.

Following the collapse of the Bohemia Energy Group suppliers and some other suppliers, almost a million customers found themselves in the SoLR mode in a few days. Thus, the provision of advisory and information services to consumers by the Office was highly valuable for the consumers to find their way around the market and their choice of further steps, and this activity of the Office assumed greater importance.

Consumers were urgently tackling problems related to the rising prices of energy supply (through contract amendments), supply of last resort, and supplier switching. They were coping with ambiguities related to the billed consumption amount; unilateral increases of down payments; uncertainty whether supply would continue: the offering of contracts was limited (as to the contract terms or the price terms) for several weeks. The consumers were facing inaccessibility of suppliers and congestion of their telephone lines, customer service centres, etc. In the light of the confusion in the market, many consumers were considering whether or not they should terminate their contracts with a supplier due to a price hike when they were not sure that they would find a better quotation from an entity ensuring back-to-back energy supply. Customers therefore also turned to the Office in specific contractual matters that the Office was unable to resolve *ex officio* in lieu of their supplier. The primary basis is the content of the contract and the agreed business terms and conditions. Rights must be exercised and sought and interests defended directly vis-à-vis the other contracting party. As part of its advisory activities, the Office has helped to raise awareness of consumer rights and the options to exercise them. The Office coordinated the steps and help to customers and consumers within working groups.

The extreme number of submissions in late 2021 was far beyond the Office's capacity; unlike most of the suppliers, it does not have any customer service centres and telephone operators. It had to adopt operating measures at already most complicated times of capacities reduced by the COVID-19 pandemic. With a view to providing quickly the information needed for tackling the situation effectively, the Office reinforced its telephone lines, increased provision of information about the current situation in the energy market via its website, and offered public education and lectures for consumers and self-governments via webinars, including a manual to help the consumers who would turn directly to municipalities for help. Initial and timely information was also provided by preparing and sending comprehensive automatic answers to the most frequently asked questions in consumers' submissions.

Despite the very complicated situation, the Office successfully handled the submissions through explanations of the problems, references to the relevant legislation, and advice on consumer rights in the energy industries. In quite a few cases, the Office helped to set up communication between the supplier and consumer and they successfully reached agreement and resolved their problem. ADR between the consumer and supplier has turned out to be still the quickest and most effective approach to addressing disputes arising from contracts with suppliers.

In 2021, the Office received 138 applications for opening proceedings on consumer disputes; 107 of them were decided with finality. Typical disputes involved deciding on the supplier's failure to meet its contract obligation of billing electricity/gas supply as due or on its failure to pay the overpayment arising from billing, and determining the date of establishment and/or discharge of an electricity/gas supply contract.

The Office's exercise of its oversight competence as regards suppliers' compliance with, in particular, the Energy Act, the Consumer Protection Act, and the Act on Prices is also crucial for enhancing consumer protection in the energy sector. In this respect, the important aspect is, primarily, the preventive role of inspections, intended to show clearly the limits of the supplier's conduct in relation to consumers. The primary object of overseeing compliance with the Consumer Protection Act was compliance with the obligations inherent in business in the energy industries (laid down in Section 4(4) of the Consumer

Protection Act), and hence the aggressive commercial practices committed by the business owner when demanding from the consumer an immediate or deferred payment for services that it supplied to the consumer although the latter had not placed an order for such services. Table 1 lists the types and number of inspections and sanction proceedings.

**Table 1**      **Number of checks and number of inquiries referred to sanction proceedings in 2021**

<b>Checks</b>	<b>Under the Consumer Protection Act</b>	<b>Other laws</b>
opened	0	265
completed	0	266
<b>Total number of inquiries for breaches of law</b> , of which under		<b>264</b>
the Energy Act		253
the Consumer Protection Act		7
the Price Act		4

Source: ERO