

## The truth about the independence of Europe's energy regulatory authorities

- **Shortcomings in the political independence of Europe's energy regulators**
- **Confidence in the regulator's independence will provide confidence in the market**
- **Regulatory cooperation enhances regional and EU market integration**

Today, the Council of European Energy Regulators (CEER<sup>1</sup>) published a report "[safeguarding the independence of regulators](#)". In it, CEER finds that EU energy legislation has not been fully implemented in terms of the independence of energy regulators.

The CEER report examines the powers and resources of Europe's energy national regulatory authorities (NRAs), as well as their independence, accountability and transparency<sup>2</sup>.

### **Shortcomings in the political independence of Europe's energy regulators**

EU energy legislation (3<sup>rd</sup> Package) provides that energy NRAs should be independent of both industry and government. CEER's report finds that in some countries EU law has not been fully implemented in terms of energy NRA independence.

Whilst most regulators' decisions are final and binding, CEER finds that in 5 of the 29 countries surveyed, the NRA can be given instructions by the government on regulatory decisions. Furthermore, in 11 countries, the NRA requires governmental approval of the budget or the government can cap the regulatory fee.

Insisting on the need for regulatory independence, **CEER President, Lord Mogg**, said:

*"Independent regulatory oversight means that the energy regulatory authorities must be empowered to act independently of market and political interests. These essentials have been enshrined in the current EU energy laws and should be implemented in all EU Member States".*

Looking ahead, CEER will examine the European Commission's "Clean Energy for All Europeans" legislative proposals with a view, *inter alia*, to ensuring that NRA independence is safeguarded and, where necessary, strengthened.

### **Confidence in the regulator's independence will provide confidence in the market**

The CEER report includes recommendations on how to safeguard the independence of regulators<sup>3</sup>.

CEER President, Lord Mogg, added:

*"The independence of national regulators is of profound importance for market confidence. A stable, predictable and coherent regulatory framework is essential for investments and to protect consumers in the sector."*

### **Regulatory cooperation enhances regional and EU market integration**

Also published today is the [CEER report on NRA cooperation](#). This paper provides examples of practical cooperation among NRAs (both formally or voluntary) on technical or market-related issues across Europe. It finds that NRA cooperation has played a key role in enhancing market integration at regional level and that NRA cooperation should be supported going forward.

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Ends (see Notes for Editors)

**Notes for Editors:**

1. The Council of European Energy Regulatory (CEER) is the voice of Europe's national energy regulators. Its members and observers are the independent statutory bodies responsible for energy regulation at national level. Visit [www.ceer.eu](http://www.ceer.eu). A not-for-profit association in Belgium, CEER brings together 35 national regulatory authorities (NRAs) from EU Member States, EFTA and EU accession countries including (since 2015) the Contracting Party Members of the Energy Community Treaty.
2. The focus of this CEER report "safeguarding the independence of regulators" is on energy regulatory powers, resources, accountability and independence with respect to current EU legislative framework, in particular the (2009) 3rd Package of energy legislation. Looking ahead, CEER will in the coming months scrutinise the European Commission's "Clean Energy for All Europeans" legislative proposals with a view, inter alia, to ensuring that NRA independence is safeguarded and, where necessary, strengthened.
3. CEER recommends strengthening regulators' independence in the following ways:
  - Clarity: The national law should explicitly refer to the NRA's independence from politics and from the industry by including a general definition (e.g. "refrain from seeking or following instructions"). The legislator should ensure the absence of conflicting rules relating to the independence of the NRA.
  - Good practice: A good practice is to draw up a code of conduct or staff independence manual with all rules on independence, conflict of interest rules etc. that apply to NRA staff and management.
  - Exits: Rules on dismissal of head/board members seem to be well-anchored in the law and followed across the EU. However, when the part of the law that refers to the head and/or fixes the composition of the board of the NRA is changed, the current head/board should still complete their term before the change come into force. If it is necessary in such a situation that a head's/board member's term end prematurely, there should be proper justification for it.
  - Financing: The budgetary autonomy of the NRA should be safeguarded at all stages and in all types of processes. Any contradiction should be avoided and the government should not have the possibility to interfere with this autonomy at any stage.
  - Budget use: NRAs should be allowed to use their budget as they see fit so long as they stay within their overall budget and abide by the rules of proper financial bearing.

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