

Energy Law Update

Communication from The European Commission
on the European Energy Union

KINSTELLAR

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Preface



Kinstellar's Energy Law Update provides a timely overview of recent developments in energy policy and energy market regulation in Central, Eastern and Southern Europe, Turkey and Central Asia.

In addition to regulatory updates, reports on market and legislative developments, our Energy Law Update also presents our experts' views gained from their deep knowledge of the energy markets in Emerging Europe and Central Asia. As such, it has an element of subjectivity – which we hope will make it interesting for our readers.

On 25 February 2015, the European Commission (the “**Commission**”) issued a comprehensive set of proposals in the form of Commission Communications aiming at the creation of the European Energy Union, consisting of the following documents:

- A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy;
- The Paris Protocol – A blueprint for tackling global climate change beyond 2020; and
- Achieving the 10% electricity interconnection target – Making Europe's electricity grid fit for 2020

(together the “**Energy Union Package**”).

The Energy Union Package will not only set the scene for the establishment of the new European Energy Union but will also lay down the foundations for and identify the new cornerstones of the European Union's (the “**EU**”) energy policy and legislation for the coming years.

In this issue of the Kinstellar Energy Law Update we briefly highlight some of the key statements of the Energy Union Package which we believe are of utmost importance from legal point of view to energy market stakeholders operating in the EU.

Fundamental transformation of Europe's energy system

The Energy Union Package contains proposals to the EU institutions for the creation of the Energy Union, a truly integrated European energy system as foreseen by the Commission. The Energy Union will require the fundamental transformation of the current European energy system based on the main principles of renewable energy based generation, free flows of energy across borders and the active involvement of the customers in the operation of the energy system.

The Commission's Energy Union proposals will still need to be approved by the European Council and the European Parliament. If approved by all relevant EU bodies, the Energy Union Package may potentially become the basis of a fourth EU energy and climate change legislative package – a possibility which many believe may be forthcoming.

This newsletter provides concise information on certain selected topics. Its content is not exhaustive and it should not be considered as legal advice. If you have any questions in relation to the content of this newsletter, please feel free to contact us and we will be more than happy to assist you.

This is one of the reasons why we think the Energy Union Package has the potential to transform the current European energy policy and drive the EU's actions in the energy sector into a more aligned and coherent strategy.

According to the Energy Union Package, the establishment of the Energy Union will be based on the following five main priorities:

- Energy security, solidarity and trust
- A fully integrated European energy market
- Energy efficiency contributing to moderation of demand
- Decarbonising the economy
- Research, Innovation and Competitiveness

Energy security, solidarity and trust

Diversification of energy supply

The efforts of diversification of natural gas supply to Europe will be focused, among others, on alternative routes, such as the Southern Gas Corridor, the establishment of liquid gas hubs, in particular in Central and Eastern Europe, the potentials in gas storages, domestic production and production from unconventional sources. The Commission will prepare a comprehensive LNG strategy to explore the full potential of using LNG in case of supply shortage through pipelines.

Security of supply

The Commission will review the existing Security of Gas Supply Regulation and will also prepare new security of supply legislation for the electricity market in 2015 – 2016.

More transparency on gas supply

Agreements for buying energy from third countries will have to fully comply with EU law. This requirement will have to be ensured well before the conclusion of such agreements, by informing the Commission of negotiations at an early stage, providing the possibility for the Commission to take part in the negotiations and using standard contract clauses that will be prepared by the Commission. In addition, appropriate measures will be sought to ensure transparency of commercial gas supply contracts that may have an impact on EU energy security.



A fully integrated European energy market

Implementation and enforcement of existing energy legislation

Full implementation and strict enforcement of the existing energy and related legislation is still outstanding and is one of the most important preconditions to the creation of the European Energy Union. This will now be treated as first priority by the Commission. The main focus is on the provisions relating to unbundling, the independence of regulators and the competitions rules preventing the distortion of the internal energy market.

Importantly, the Commission proposes that certain ex-ante conditions, which are still to be named, will have to be satisfied before a Member State may use the European Structural and Investment Funds to co-finance energy investments.

Redesigning the European electricity market

The integration of renewables and the involvement of the customers in the operation of the market requires the review of the current electricity market design. Based on such review, the Commission will propose a new electricity market design in 2015 to be followed by new electricity market legislation in 2016.

Limitation and phasing out of state interventions

Capacity mechanisms and renewable support schemes must be in line with the rules on the internal energy market. Capacity mechanisms should only be developed if a regional system adequacy assessment, the requirements of which will be prepared by the Commission, underlines the need for such an intervention.

The Commission will ensure greater transparency of the composition of energy costs and prices, including regulated tariffs, taxation policies and other forms of public support by introducing monitoring and reporting obligations. Regulated tariffs will be phased out gradually, in particular those below cost, followed by all other regulated prices.

Investments in infrastructure

Investments into generation, networks and energy efficiency will be supported by financing from existing sources such as the European Investment Bank, the Connection Europe Facility and the European Structural Investment Funds and the proposed European Fund for Strategic Investments.

The Commission will establish an Investment Portal to provide access to information on the EU energy investment projects pipeline and a dedicated Investment Forum to discuss progress on the implementation of major infrastructure projects contributing to the Energy Union.

Reinforcement of the powers of ACER

The current powers and independence of the Agency for the Cooperation of Energy Regulators will be significantly reinforced in order to create a European energy market regulator with effective rights to oversee the implementation of the internal energy market.

Decarbonising the economy

The currently existing energy efficiency legislation will be reviewed and revised by the Commission in 2015 – 2016 in order to achieve not only the already agreed EU-wide target of 27 per cent. as per the 2030 Climate and Energy Framework, but possibly an even higher target of energy savings by 30 per cent. by 2030.

Making public and private buildings more energy efficient and the transformation of the transport sector from fossil based fuels to alternative fuels, including the development of energy storages will be in the primary focus of the energy savings policy.

Energy efficiency contributing to moderation of demand

The achievement of the ambitious climate policy of reducing EU-wide emissions by 40 per cent. by 2030 will require not only the revision of the current EU Emission Trading Scheme but also the setting of national targets for sectors not included in the EU ETS, such as the land and the forestry sectors.

The Commission will propose a new renewable energy legislative package in 2016 – 2017 to support the achievement of the EU-wide target of 27 per cent. share of renewable energy use by 2030, including drawing up a new biofuels and biomass policy.



Research, Innovation and Competitiveness

The Commission will develop a new, integrated strategy for research and innovation supporting the goal of the EU becoming world leader in renewable energy, as well as becoming a driving force in terms of smart grid and smart home technology, clean transport and clean fossil fuel generation. Ultimately, the Commission's sees the new European R&I approach as an accelerator of the energy system's transformation.

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Should you have any questions and / or comments regarding this Energy Update, please do not hesitate to contact us.

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