

MARKET INEFFICIENCIES IN THE MEMBER STATES OF THE EUROPEAN UNION (CENTRAL AND EASTERN EUROPE)

October 2020

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AUSTRIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Capacity reservation by phone and introduction of the centralized explicit capacity allocation mechanism. | TSO | It depends on the amount of provided capacity by TSOs. Explicit capacity allocation procedure is not that efficient as XBID method, but is definitely better than reservation by phone. The obligation to nominate the capacity in full amount as soon as possible after the successful allocation helps to avoid the capacity hoarding but simultaneously reduces the flexibility of market participants. | XBID intraday capacity allocation procedure has been proven to be the most efficient solution. |
| Scheduling nominations are only possible by email. | TSO | Occasional delays in communication with TSO which lead to nomination rejections. | Abolish such requirement. Introduction of web service communication channel between TSO and balance responsible parties. |
| Language barriers on public webpage. | Regulator | English language translations of the electricity market code only for chapters that are necessary to understand how the Austrian electricity market works. Full information is provided only on the German version of the homepage. | More frequent updates and translation in English of technical and organisational market rules which would cover all chapters. |

BULGARIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Requirement for obtaining a licence. | Regulator | Unnecessary bureaucracy. Administrative entry barrier that hinders the development of the market and liquidity. Time consuming requirement. | Abolish the requirement for a wholesale trading licence. Wholesale traders will in any case have all contractual arrangements with TSOs etc. |
| Users of the Transmission System (TS) must be licence holders. | Regulator, TSO | To use TS, market participants must have a licence. TS should be available for commercial transit as well, and market participants should be allowed to participate in the auction even if they are not licensed. It also affects cross-border trade liquidity. | The requirement for obtaining a licence should be abolished, but even in the presence of such a requirement, market participants should be able to get contractual arrangements with TSOs for using the system and for participating in capacity auctions. |
| Annual supervision fee based on turnover (value of sales). | Regulator | Unnecessary administrative requirement that charges market participants based on their sales transactions. Market participants should not be charged based on the transactions they make. This might create disincentives. Such fees artificially influence wholesale prices. | Fees should not be charged to wholesale traders as they have the role of resellers. Harmonisation of the funding of NRAs. Fees by each NRA should be charged on G (generation) and L (load) of their jurisdiction, which is more predictable than the participation of traders and their purchasing and selling activities. |
| Burdensome reporting requirement: separate accounting for licence activities and financial statements | Regulator | Time consuming requirement. Uncertainty preparation of a large number of financial statements for activities in specific countries. This requires many simplified assumptions and makes the report an unreliable source. | Harmonised and simplified reporting requirements on an annual basis. All the information can be obtained by the TSO. Regulator should accept Audited Financial Statements of the companies and should not require additional financial statements for activities in specific countries. Requirement for financial statements in a single country for companies active in wholesale cross-border trading is an unfeasible exercise. |
| Additional Reporting to the Financial Supervision Commission. | Financial Supervision Commission | Time consuming requirement with duplication of reporting to Energy and Financial regulators. | Better coordination between Bulgarian institutions and removing duplicated reporting obligations. |

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| Lack of transparency and language barriers. Published data without explanation. | Regulator, TSO | It is difficult for market participants to follow market developments. Not sufficient information regarding market operation, demand forecast, plans for operation of generation and transmission. | Frequent updates and translation in English of the main documents. Harmonised platform for data publication and data consistency also known as power market transparency web-page. English language as an alternative possibility for formal communication. Publication of all relevant market operation information – historical and forecast. |
| Inefficient and not transparent balancing market | Regulator, TSO | Balancing market prices do not reflect the real conditions of the power system. No incentives for market participants (mainly GenCos) to place bids and offers for balancing services. Balancing prices are published with more than one month delay. No information about the balance of the system is published. Market participants do not know when the power system is in surplus or In shortage. | Introducing a real balancing market with competition between balancing service providers. Considering a fair balancing mechanism, a one-price system would be a better solution. Publishing the balancing prices as close as possible to the delivery hour. Provision of information about the state of the system (surplus or shortage). |
| Market power of incumbents. | Regulator | NEK has significant market power, combining many functions: hydro producer; public supplier (formal single buyer function), trader, supplier of last resort, balancing group coordinator. | Implement unbundling and efficient restructuring of the BG power sector. |
| Use-it-or-lose-it principles of allocated interconnection capacity. Current rules do not foresee market-based compensation at the border with Turkey. | Regulator, TSO | The entire risk rests with market participants. No flexibility. | Use-it-or-get-paid principle should be applied for all borders. Transmission rights should be options. There is a secondary market. |
| All electricity trades involving electricity generators having a total installed capacity in BG over 1 MW must be concluded exclusively through IBEX. | Article 100(3) BG Energy Act | Provides for monopoly platform and enables IBEX to abuse its dominant position. By preventing market participants from choosing the most appropriate platform for their electricity deals, mandatory trading on IBEX restricts freedom to decide whether to sell the purchased electricity in the | Change in the Energy Act to be repealed. |

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| | | territory of BG or to export that electricity to other Member States. | |
| Hybrid market model with tariff market and liberalized market | Ministry of Energy, Parliament | The price differences on the tariff and the liberalized market are significant. Prices on the tariff market are not directly influenced by the market prices. | Complete market liberalization and establishment of a single market model. Electricity prices determined by the market. |
| Regulatory period starts in the middle of the year | Regulator | Market tariffs (network tariffs, fees, premiums, regulated market tariffs, etc.) are changed every year on 1 st of July. Hence for the trading companies is hard to make strategic planning on annual basis, because they do not know the tariffs for the second half of the year. | Regulatory period starts at the beginning of the year. |

CROATIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Licensing regime for wholesale trading. | Ministry, Regulator | Barrier to entry the market for the companies legally established in EU member state or Contracting Parties of the Energy Community. | No licensing requirement for wholesale trading. |
| Only licensed parties can sign the contract with the TSO. | TSO | Bureaucratic and burdensome requirements for licensing and establishment of a local presence. | Even with the licensing requirement in place, market participants without a licence should be enabled to sign a contract with the TSO at least for commercial transit. |
| Annual supervision fee based on turnover (value of sales). | Regulator | Market participants are charged on the basis of their turnover. It gives the wrong signals to the market. | Abolishment of transaction based fees. |
| Scheduling Fee | Market operator | Additional costs | Abolishment of scheduling fees. |

CZECH REPUBLIC

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Requirement for obtaining a licence. | Ministry, Regulator | Situation improved by the change of Energy Act in 2011, which allows acknowledgement of the licences from other EU countries. | Cancellation of the requirement to obtain a licence, at least for wholesale trading. |
| Users of the TS must be licence holders. | Regulator, TSO | To use TS, market participants must have a licence. TS should be available for commercial transit as well and market participants should be allowed to participate in the auction, even if they are not licensed. Affects liquidity in the capacity allocation process. | Market participants should be able to have contractual arrangements with TSOs for using the system and for participating in capacity auctions without the licence. |
| Limitations of intraday trading – bilateral intraday transactions are not allowed, deadline for intraday at the organized market is too long (1 hour before delivery). | Ministry, Regulator | Obstacle for balancing the position shortly before the delivery, increases potential imbalances. | Allow bilateral intraday transactions and shorten deadline for intraday transactions (e.g. 5 minutes before the delivery). |
| Foreign traders have to establish a branch in the Czech Commercial Register for obtaining the eco-tax exemption. | Czech Customs Office | Administrative obstacle (with tax risks) reducing attractiveness of the market for foreign traders. | Abolishment of the requirement to establish a branch. |

GREECE

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| <p>The new market model, which constitutes a semi-compulsory mandatory pool, has a number of shortcomings:</p> <ol style="list-style-type: none"> 1) The current market model does not allow market participants to trade freely within the Greek electricity market. More specifically, OTC contracts are only partially allowed, i.e. traders cannot buy or resell in GR, and they can only export the purchased volumes. In practice, only suppliers can buy inside GR for delivery to a customer. 2) Market participants are prohibited from transferring their positions from forward to day-ahead (DAM) to intraday market (IDM)) 3) According to the current market framework, cross-border transactions have to be scheduled separately as imports and exports. 4) No clear timeline envisaged for the transition from the first phase (with unit-based bidding) of market development to the second phase (introduction of portfolio bidding and self-dispatch on portfolio basis). | <p>HENEX</p> | <p>Preventing the development of a well-functioning and liquid power market</p> | <p>Establishing a clear timeline for revision of the current market design and for addressing all the shortcomings of the current market model as soon as possible.</p> |
| <p>The administrative burden currently associated with the onboarding procedure must be reduced</p> | <p>HENEX</p> | <p>May prevent some market participants from joining the PX</p> | <p>The onboarding procedure for market participants should be simplified and limited to the provision of the relevant financial statements and legal documents.</p> |

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| <p>Currently ADMIE's XBMS (Cross Border Management System)/ DAMAS imposes the following obligations on market participants:</p> <ol style="list-style-type: none"> 1) Long term (LT) nomination files: market participants must send a file per each border where a given transaction has taken place, each with a different mRID. 2) Short term nomination files: market participants must send a file per each border, each with different mRID (different from the LT mRIDs). | <p>ADMIE</p> | <p>The use of a web form for daily operations can be extremely time consuming and cumbersome for market participants. Apart from that, it increases the risks of mistakes being made, as all information has to be filed manually. Web services could help simplifying the process, but they have not been developed yet. In any case, market participants would still be required to file nominations per each border.</p> | <p>Improving the user-friendliness and the functionality of the nomination platform.</p> |
| <p>The licensing regime creates an artificial barrier for market entry</p> | <p>Ministry for Energy and Climate, RAE</p> | <p>The licensing regime constitutes an artificial barrier for market entry</p> | <p>Abolishing the licensing requirements for wholesale electricity trading in Greece.</p> |

HUNGARY

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Requirement for obtaining a trading licence. | Ministry, Regulator | Unnecessary bureaucracy. Administrative entry barrier that hinders the development of the market and liquidity. Time consuming requirement. | Abolish the requirement for a wholesale trading licence. Wholesale traders will in any case have all contractual arrangements with TSOs, MOs, PXs, etc. |
| Requirement to have a local address for communication. | Regulator | Unnecessary administrative requirement. | Abolish such requirement. The Regulator should formally communicate with the head office as a licence holder. |
| <ul style="list-style-type: none"> Extremely burdensome reporting requirement Five types of monthly reports (one of them to the Customs Authority) Two semi-annual and a quarterly report Seven annual reports | Regulator | A very time-consuming requirement. Potential market participants hesitate to enter markets with unnecessary administrative requirements. More than three parties in the market are reporting the same data. Uncertainty over the preparation of financial statements for activities in specific countries. Requires many assumptions and makes the report an unreliable source. | Harmonised and simplified reporting requirements on an annual basis. All the information can be obtained from ACER. The regulator should accept Audited Financial Statements of the companies and should not require additional financial statements for activities in specific countries. A requirement for financial statement in a single country for companies active in wholesale cross-border trade is an unfeasible exercise. |
| Annual supervision fee based on turnover (value of sales). | Regulator | Unnecessary administrative requirement that charges market participants based on their sales transactions. | Annual supervision fee shall be cancelled, if applied shall be based on delivered/scheduled volumes. |
| Users of the TS must be licence holders. | Regulator, TSO | In order to use TS, market participants must have a licence. TS should be available for commercial transit as well and market participants should be allowed to participate in the auction even if they are not licensed. Affects liquidity in the capacity allocation process. | The requirement for a licence should be abolished, but even in the presence of such a requirement, market participants should be able to have contractual arrangements with TSOs for using the system and participating in capacity auctions |

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| Lack of transparency and language barriers. Published data have no content explanation. | Regulator, TSO | Market participants find it difficult to follow the changes in legislation and codes. Not sufficient information regarding the market operation description | Frequent updates and translation in English of the main documents governing the market. Harmonised platform for data publication and data consistency. |
| Lack of firmness of allocated transmission capacity. | TSO | The entire risk is with market participants. | More firm capacity should be available and TSOs should be able to buy back capacity. |
| The right of MAVIR to exclude market participants from a balancing circle after 2 imbalances within 6 months. | TSO | This rule poses disproportionately high operational risks for physical power traders. | If sanctions are needed, financial compensation should be the solution. |

POLAND

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Requirement for obtaining a licence. | Ministry, Regulator | Unnecessary bureaucracy. Administrative entry barrier that hinders development of market and liquidity. Time consuming requirement. | Abolish the requirement for wholesale trading licence. Wholesale traders will in any case have all contractual arrangements with TSOs, PXs, etc. |
| Exchange trading obligations | Ministry, Regulator | A 100% exchange trading obligation imposed on major producers that has been suddenly imposed on the market back in 2018. High transaction fees apply (as emphasised further down below) | Placing the obligation only on intra-group transactions and allowing the fulfilment of the obligation on all OTFs registered in the EU |
| Burdensome reporting requirement: Monthly reports Quarterly reports Annual reports and other regular reports | Ministry, Regulator | Time consuming requirement. Market participants avoid markets with unnecessary administrative requirements. This affects liquidity in the market. | Harmonised and simplified reporting requirements on an annual basis. All the information can be obtained by the TSO, NRA and the PX. |
| Volatility of regulations covering power and gas markets | Ministry | Tracking the changes of the law is extremely time-consuming. Market participants avoid markets with unclear law requirements. This affects liquidity in the market and enhancing the consolidation of the market. | Harmonised and simplified law, longer consultation periods for draft documents |
| Non-market measures disrupting the freedom of price formation | Ministry | Freezing the end- customer prices retroactively and at different levels observed for 2019, applying to all (existing and new) contracts (both at the Exchange and OTC). Similar discussions (narrowed scope) in 2020 Wholesale price in many instances were higher than the price offered to retail end-customers leading to insolvencies | Abandoning interferences with end-customer prices, regulated price can only refer to the vulnerable customer under the existing law. If the consumers are to be protected from the growing power prices, the State should resort only to reducing the fiscal burdens it imposes on them so as not to interfere with the market's ability to balance the supply and demand. |
| Annual supervision fee based on turnover (value of sales). | Regulator | Unnecessary administrative requirement that charges market participants based on their sales transactions. Market participants should not be charged based on the transaction that they make. | Fees should not be charged to wholesale traders as they have the role of resellers. Harmonise the funding of NRAs. Fees by each NRA should be charged on G and L of their jurisdiction, which is |

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| | | This might create disincentives. Such fees influence artificially wholesale prices. | more predictable than the participation of traders and their purchasing and selling activities. |
| Users of the TS must be licence holders. | Regulator, TSO | In order to use TS, market participants must have a licence. TS should be available for commercial transit as well and market participants should be allowed to participate in the auction even if they are not licensed. Affects liquidity in the capacity allocation process. | We have argued above that the requirement for a licence should be abolished, but even in the presence of such a requirement market participant should be able to have contractual arrangements with TSOs for using the system and participating in capacity auctions. |
| <ul style="list-style-type: none"> Requirements for membership in the Polish power exchanges: Permission from Polish Financial Supervisory Authority (PSFA) High fees Unclear PX status under MiFID II. Lack of transparency and language barriers | PSFA; PX; Warsaw Commodity Clearing House (WCCH); Ministry | <p>Time consuming requirement.</p> <p>Withholding liquidity, as for companies without a presence in Poland, it is difficult to fulfil such requirements.</p> <p>Market participants find it difficult to influence the development of the market. High membership and trading-related fees at the WCCH, hindering smaller players from entering the market</p> <p>Insufficient information regarding the market operation and legislative changes, especially in English.</p> | Abolishing PFSA approval requirements. Harmonised platform for data publication and data consistency. Adjusting the fees structure allowing broader market access. Frequent updates and translation in English of the main documents governing the market. |
| Withholding interconnection capacity (TSO reserves) | TSO | Little capacity on the Polish interconnections. | Capacity should be offered to the market on non-discriminatory basis. |

ROMANIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Parliament and Government interference in NRA powers (setting secondary legislation) | Parliament Government | interference into NRA powers by defining key aspects of secondary legislation represents a significant regulatory risk with consequent disincentives for market participation, and significant detrimental impact on market liquidity, functioning and stability. | Secondary legislation should be left to NRA within framework of public consultations, as prescribed by law, without such government interference |
| Annual supervision fee based on turnover. | Regulator | An unnecessary administrative requirement that charges market participants based on their transactions. Market participants should not be charged based on the transaction they make. This might create disincentives. Such fees influence artificially wholesale prices. | Fees should not be charged to wholesale traders as they have the role of resellers. Harmonize the funding of NRAs. Fees by each NRA should be charged on G and L of their jurisdiction, which is more predictable than the participation of traders and their purchasing and selling activities. |
| Users of the TS must be licence holders. | Regulator, TSO | In order to use TS, market participants must have a licence. TS should be available for commercial transit as well and market participants should be allowed to participate in the auction even if they are not licensed. Affects liquidity in the capacity allocation process. | The requirement for a licence should be abolished, but even in the presence of such a requirement, market participants should be able to have contractual arrangements with the TSO for using the system and participating in capacity auctions. |
| One market operator. | Parliament: Electricity and Gas Law No. 123/2012, Regulator | Market design does not enable forward transactions on other platforms than OPCOM and thus limits hedging. OTC brokers banned | Change of the market design. |
| Language barriers. | OPCOM, TSO, Regulator | Insufficient information in English. Difficult for foreign market participants to follow publications. | Translation of the main documents governing the market into English. |
| Burdensome reporting requirement, incl. monthly | Regulator | Multiple time-consuming requirements with little to no added value (e.g. export contracts, multiple versions of schedules, ...): | ANRE has obtained direct ACER access in September 2019 and so should be able to obtain all relevant information |

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| wholesale market monitoring reports. | | most of the information is transmitted by economic operators to ACER as a result of the REMIT requirements. In addition, ANRE is requiring additional information from the TSO (with no added value) about wholesale contracts. | through direct access to the ACER platform. |
| Occasionally, late publication of generation unit outages. | TSO | Lack of timestamp on TSO transparency platform and late publication of outages. | Introduction of timestamp. |
| High limitation of free bilateral negotiated contracts | Parliament: Electricity and Gas Law No. 123/2012, Regulator: order 65/2020 | Market design highly limit bilateral transactions outside OPCOM and is thus blocking non-standard physical/financial products (e.g. options). The Electricity and Gas Law prevents producers from selling outside the centralised market. Despite Regulation 943/2019 and ANRE Order 236/2019 (which enables trading on 'non-regulated markets'), ANRE Order 65/2020 limits "long-term supply contracts" (which should be negotiable over-the-counter as per Art. 3.o) of Regulation 2019/943) to those with delivery duration longer than one year, thereby significantly limiting free bilateral contract negotiation (and effectively preserving the 'ban on bilateral trading'). | Change of the market design. |
| Artificial limitation of flexible products | Regulator, ANRE Order 64/2020 | Current market design highly limits the flexibility of traded products, due to restrictions on bilateral trading (see above) and the OPCOM PCCB-LE-Flex platform permitting only limited flexibility of traded products. | Change of the market design by permitting higher flexibility in secondary regulation, and enabling bilateral trading in all products. |

SLOVAKIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
|---|---------------------------------|---|--|
| Requirement for obtaining a supply licence. | Ministry, Regulator | Situation improved by the change of the Energy Act. Regulator recognizes a trading licence from other MS. | Harmonize on EU level. |
| Lack of transparency and language barriers. | Regulator, TSO | Insufficient information regarding the market operation description. | Frequent updates and translation in English of the main documents governing the market. Harmonised platform for data publication and data consistency. English should also be considered as a formal language for communication. |
| Users of the TS must be licence holders. | Regulator, TSO | In order to use TS, market participants must have a licence. TS should be available for commercial transit as well and market participants should be allowed to participate in the auction even if they are not licensed. Affects liquidity in the capacity allocation process. | Even in the presence of such requirement, market participants should be able to have contractual arrangements with the TSO for using the system and participating in capacity auctions without the licence. |
| Reporting requirement: Quarterly reports, annual reports - separate accounting for licence activities and financial statements. | Ministry, Regulator | Time consuming requirement. Uncertainty over the preparation of financial statements for activities in specific countries. | Harmonised and simplified reporting requirements on an annual basis. All the information can be obtained by the TSO and the PX. The regulator should accept Audited Financial Statements of the companies and should not require additional financial statements for activities in specific countries. |
| Requirement of all energy licence holders to declare its ultimate beneficiary in the Register of Public Sector Partners | Ministry of Justice | Administrative obstacle with impact on privacy of the respective individuals (disclosing their personal data) reducing attractiveness of the market for foreign traders | To limit this obligation only for companies, which are in a contractual relationship with Public Sector companies |
| End consumer price regulation. | Regulator | Impact on Liquidity | Retail market opening. |

SLOVENIA

2020

| Trading Barrier/Market Inefficiency | Responsible Institution or Body | Impact on Market | Proposed Solution of EFET |
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| Close Contract Reporting Fee (0,05 €/MWh). | Borzen | Each closed contract must be reported and fees must be paid. | Abolishment of fees. |