

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

October 2021

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AUSTRIA

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET 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

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
Requirement for obtaining a licence.	Parliament, 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 the TS, market participants must have a license. The 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. This 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.
Extended reporting obligations for transactions and orders	Regulator	An obligation is imposed on market participants to keep a paper and/or electronic log of all transactions and orders in relation to energy products on the wholesale market. Such an obligation massively increases the administrative burden on traders, especially given the comprehensiveness of the information to be recorded and stored. This reporting obligation significantly exceeds the requirements of REMIT.	Adhere to the reporting requirements under REMIT. Revision of Ordinance 3 for licensing of the activities in the energy sector are required.
Lack of transparency and language barriers. Published data without explanation.	Regulator, TSO	It is difficult for market participants to follow market developments. Lack of 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. Absence of incentives for market participants (mainly GenCos) to place bids and offers for balancing services. Balancing prices are published with more than a month-long delay.	Introduction of 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. Bulgaria to take measures to include more balancing service providers by reviewing prequalification and monitoring requirements allowing participation of as many technologies as possible as demand response and storage
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. Between 70% and 80% of the generation for the liberalized market comes from state-owned power plants – subsidiaries of Bulgarian Energy Holding	Implement unbundling and efficient restructuring of the Bulgarian 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 500 kW must be concluded exclusively through IBEX.	Parliament, Article 100 (4) 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 territory of BG or to export that electricity to other Member States.	Article 100, para 4 of the Energy Act to be repealed.
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 wholesale 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. Amendments of the Energy Act.

CROATIA

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
Licensing regime for wholesale trading.	Ministry, Regulator	Barrier to entry into the market for the companies legally established in EU Member States 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. This gives the wrong signals to the market.	Abolishment of transaction-based fees.
Scheduling Fee	Market operator	Additional costs	Abolishment of scheduling fees.

CZECH REPUBLIC

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
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.	Ministry, Regulator	Obstacle for balancing the position increases potential imbalances.	Allow bilateral intraday transactions. The deadline for intraday transactions has been shortened to 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

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed Solution of EFET
<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 shortcoming 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>

<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

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
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, to appoint a delivery agent.	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 requirements 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

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.
Income tax of energy suppliers (commonly known as Robin Hood tax) is payable by energy suppliers and public utility suppliers including the Hungarian establishments of foreign companies also. (The base of the income tax is the positive amount of pre-tax profit adjusted for the items specified by the act and not including the income attributable to foreign establishments taxable abroad. The tax rate is 31 percent.)	Ministry	Unnecessary administrative requirement that charges market participants based on their sales transactions.	Abolish such legislation.

POLAND

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed Solution of EFET
Requirement for obtaining a licence.	Ministry, Regulator	Unnecessary bureaucracy. Administrative entry barrier that hinders development of market and liquidity. Time consuming requirement. As of 2021 the licence entails a requirement to provide collateral, which is an unnecessary duplication of the obligation	Abolish the requirement for wholesale trading licence. Wholesale traders will in any case have all contractual arrangements with TSOs, PXs, etc. Withdraw the requirement to introduce additional collaterals under the licensing procedure, as collaterals are already required by the system operators & the clearing house.
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 and regulated markets 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; consultation in English at least for key market developments.
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 and 2021. 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.

		Announced reforms in 2021 include a proposal to move all coal assets into a single entity that would control approx. 70% of the generation capacity in Poland, giving it substantial market power.	Country should aspire to develop competition and attract new investors instead of relying on national champions.
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. 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. Harmonise 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 license 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 	PSFA; PX; Warsaw Commodity Clearing House (WCCH); Ministry	Time consuming requirement. Withholding liquidity, as for companies without a presence in Poland, it is difficult to fulfil such requirements. OTF status of the Polish market disincentivizes the activity of foreign entities and limits the hedging opportunities. High membership and trading-related fees at the TGE & the WCCH, hindering smaller players from entering the market. Additional fees charged for market data access.	Abolishing PFSA approval requirements. Harmonised platform for data publication and data consistency. Adjusting the fees structure allowing broader market access. Establish a regulated market in Poland.
Withholding interconnection capacity (TSO reserves)	TSO	Little capacity on the Polish interconnections.	Capacity should be offered to the market on non-discriminatory basis.
Uncompetitive & misaligned balancing market framework	Ministry, TSO	The ongoing reform of the balancing market offers limited scope for harmonization with the rest of the EU. Phase II of the reform far less ambitious than the originally proposed version from 2019. Most notably single capacity & energy procurement procedure is to be maintained, making the scheme non-transparent. Scarcity pricing mechanism is to be introduced, potentially weakening the cost-optimization capabilities of the balancing market even further.	Introduce separate capacity & energy procurement procedures as initially envisaged. Ensure broad dialogue with the market participants to harmonize the Polish balancing market with other EU markets. Rely on market mechanisms to optimize the system costs.

ROMANIA

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
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. This 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

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.	should be able to obtain all relevant information 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 severely limits 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 26/2021 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 of one month or longer, 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

2021

Trading Barrier/Market Inefficiency	Responsible Institution or Body	Impact on Market	Proposed EFET Solution
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

2021

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