

Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (Text with EEA relevance)

CHAPTER IX

NATIONAL REGULATORY AUTHORITIES

Article 38

Regulatory regime for cross-border issues

- 1 Regulatory authorities shall closely consult and cooperate with each other, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.
- 2 Regulatory authorities shall cooperate at least at a regional level to:
 - a foster the creation of operational arrangements in order to enable an optimal management of the network, promote joint electricity exchanges and the allocation of cross-border capacity, and to enable an adequate level of interconnection capacity, including through new interconnection, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Member States;
 - b coordinate the development of all network codes for the relevant transmission system operators and other market actors; and
 - c coordinate the development of the rules governing the management of congestion.
- 3 National regulatory authorities shall have the right to enter into cooperative arrangements with each other to foster regulatory cooperation.
- 4 The actions referred to in paragraph 2 shall be carried out, as appropriate, in close consultation with other relevant national authorities and without prejudice to their specific competencies.
- 5 The Commission may adopt Guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46(2).