

Directive (EU) 2019/944 of the European Parliament and of the Council
of 5 June 2019 on common rules for the internal market for electricity
and amending Directive 2012/27/EU (recast) (Text with EEA relevance)

CHAPTER VII

REGULATORY AUTHORITIES

Article 57

Designation and independence of regulatory authorities

- 1 Each Member State shall designate a single regulatory authority at national level.
- 2 Paragraph 1 shall be without prejudice to the designation of other regulatory authorities at regional level within Member States, provided that there is one senior representative for representation and contact purposes at Union level within ACER's Board of Regulators in accordance with Article 21(1) of Regulation (EU) 2019/942.
- 3 By way of derogation from paragraph 1, a Member State may designate regulatory authorities for small systems in a geographically separate region whose consumption, in 2008, accounted for less than 3 % of the total consumption of the Member State of which it is part. That derogation shall be without prejudice to the appointment of one senior representative for representation and contact purposes at Union level within ACER's Board of Regulators in accordance with Article 21(1) of Regulation (EU) 2019/942.
- 4 Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For that purpose, Member States shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive and related legislation, the regulatory authority:
 - a is legally distinct and functionally independent from other public or private entities;
 - b ensures that its staff and the persons responsible for its management:
 - (i) act independently from any market interest; and
 - (ii) do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks. That requirement is without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by the government not related to the regulatory powers and duties under Article 59.
- 5 In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:
 - a the regulatory authority can take autonomous decisions, independently from any political body;
 - b the regulatory authority has all the necessary human and financial resources it needs to carry out its duties and exercise its powers in an effective and efficient manner;
 - c the regulatory authority has a separate annual budget allocation and autonomy in the implementation of the allocated budget;

- d the members of the board of the regulatory authority or, in the absence of a board, the regulatory authority's top management are appointed for a fixed term of five up to seven years, renewable once;
- e the members of the board of the regulatory authority or, in the absence of a board, the regulatory authority's top management are appointed based on objective, transparent and published criteria, in an independent and impartial procedure, which ensures that the candidates have the necessary skills and experience for the relevant position in the regulatory authority;
- f conflict of interest provisions are in place and confidentiality obligations extend beyond the end of the mandate of the members of the board of the regulatory authority or, in the absence of a board, the end of the mandate of the regulatory authority's top management;
- g the members of the board of the regulatory authority or, in the absence of a board, the regulatory authority's top management can be dismissed only based on transparent criteria in place.

In regard to point (d) of the first subparagraph, Member States shall ensure an appropriate rotation scheme for the board or the top management. The members of the board or, in the absence of a board, members of the top management may be relieved from office during their term only if they no longer fulfil the conditions set out in this Article or have been guilty of misconduct under national law.

6 Member States may provide for the *ex post* control of the regulatory authorities' annual accounts by an independent auditor.

7 By 5 July 2022 and every four years thereafter, the Commission shall submit a report to the European Parliament and the Council on the compliance of national authorities with the principle of independence set out in this Article.

Article 58

General objectives of the regulatory authority

In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures in pursuit of the following objectives within the framework of its duties and powers as laid down in Article 59, in close consultation with other relevant national authorities, including competition authorities, as well as authorities, including regulatory authorities, from neighbouring Member States and neighbouring third countries, as appropriate, and without prejudice to their competence:

- (a) promoting, in close cooperation with regulatory authorities of other Member States, the Commission and ACER, a competitive, flexible, secure and environmentally sustainable internal market for electricity within the Union, and effective market opening for all customers and suppliers in the Union, and ensuring appropriate conditions for the effective and reliable operation of electricity networks, taking into account long-term objectives;
- (b) developing competitive and properly functioning regional cross-border markets within the Union with a view to achieving the objectives referred to in point (a);
- (c) eliminating restrictions on trade in electricity between Member States, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national markets which may facilitate electricity flows across the Union;

- (d) helping to achieve, in the most cost-effective way, the development of secure, reliable and efficient non-discriminatory systems that are consumer-oriented, and promoting system adequacy and, in accordance with general energy policy objectives, energy efficiency, as well as the integration of large and small-scale production of electricity from renewable sources and distributed generation in both transmission and distribution networks, and facilitating their operation in relation to other energy networks of gas or heat;
- (e) facilitating access to the network for new generation capacity and energy storage facilities, in particular removing barriers that could prevent access for new market entrants and of electricity from renewable sources;
- (f) ensuring that system operators and system users are granted appropriate incentives, in both the short and the long term, to increase efficiencies, especially energy efficiency, in system performance and to foster market integration;
- (g) ensuring that customers benefit through the efficient functioning of their national market, promoting effective competition and helping to ensure a high level of consumer protection, in close cooperation with relevant consumer protection authorities;
- (h) helping to achieve high standards of universal service and of public service in electricity supply, contributing to the protection of vulnerable customers and contributing to the compatibility of necessary data exchange processes for customer switching.

Article 59

Duties and powers of the regulatory authorities

- 1 The regulatory authority shall have the following duties:
 - a fixing or approving, in accordance with transparent criteria, transmission or distribution tariffs or their methodologies, or both;
 - b ensuring the compliance of transmission system operators and distribution system operators and, where relevant, system owners, as well as the compliance of any electricity undertakings and other market participants, with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and the guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well as with ACER's decisions;
 - c in close coordination with the other regulatory authorities, ensuring the compliance of the ENTSO for Electricity and the EU DSO entity with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well as with ACER's decisions, and jointly identifying non-compliance of the ENTSO for Electricity and the EU DSO entity with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to the ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;
 - d approving products and procurement process for non-frequency ancillary services;
 - e implementing the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943 through national measures or, where so required, coordinated regional or Union-wide measures;

- f cooperating in regard to cross-border issues with the regulatory authority or authorities of the Member States concerned and with ACER, in particular through participation in the work of ACER's Board of Regulators pursuant to Article 21 of Regulation (EU) 2019/942;
- g complying with, and implementing, any relevant legally binding decisions of the Commission and of ACER;
- h ensuring that transmission system operators make available interconnector capacities to the utmost extent pursuant to Article 16 of Regulation (EU) 2019/943;
- i reporting annually on its activity and the fulfilment of its duties to the relevant authorities of the Member States, the Commission and ACER, including on the steps taken and the results obtained as regards each of the tasks listed in this Article;
- j ensuring that there is no cross-subsidisation between transmission, distribution and supply activities or other electricity or non-electricity activities;
- k monitoring investment plans of the transmission system operators and providing in its annual report an assessment of the investment plans of the transmission system operators as regards their consistency with the Union-wide network development plan; such assessment may include recommendations to amend those investment plans;
- l monitoring and assessing the performance of transmission system operators and distribution system operators in relation to the development of a smart grid that promotes energy efficiency and the integration of energy from renewable sources, based on a limited set of indicators, and publish a national report every two years, including recommendations;
- m setting or approving standards and requirements for quality of service and quality of supply or contributing thereto together with other competent authorities and monitoring compliance with and reviewing the past performance of network security and reliability rules;
- n monitoring the level of transparency, including of wholesale prices, and ensuring compliance of electricity undertakings with transparency obligations;
- o monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on electricity exchanges, prices for household customers including prepayment systems, the impact of dynamic electricity price contracts and of the use of smart metering systems, switching rates, disconnection rates, charges for maintenance services, the execution of maintenance services, the relationship between household and wholesale prices, the evolution of grid tariffs and levies, and complaints by household customers, as well as any distortion or restriction of competition, including by providing any relevant information, and bringing any relevant cases to the relevant competition authorities;
- p monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;
- q monitoring the time taken by transmission system operators and distribution system operators to make connections and repairs;
- r helping to ensure, together with other relevant authorities, that the consumer protection measures are effective and enforced;
- s publishing recommendations, at least annually, in relation to compliance of supply prices with Article 5, and providing those recommendations to the competition authorities, where appropriate;
- t ensuring non-discriminatory access to customer consumption data, the provision, for optional use, of an easily understandable harmonised format at national level for

- consumption data, and prompt access for all customers to such data pursuant to Articles 23 and 24;
- u monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution system operators, suppliers, customers and other market participants pursuant to Regulation (EU) 2019/943;
 - v monitoring investment in generation and storage capacities in relation to security of supply;
 - w monitoring technical cooperation between Union and third-country transmission system operators;
 - x contributing to the compatibility of data exchange processes for the most important market processes at regional level;
 - y monitoring the availability of comparison tools that meet the requirements set out in Article 14;
 - z monitoring the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity and citizen energy communities.

2 Where a Member State has so provided, the monitoring duties set out in paragraph 1 may be carried out by other authorities than the regulatory authority. In such a case, the information resulting from such monitoring shall be made available to the regulatory authority as soon as possible.

While preserving their independence, without prejudice to their own specific competence and consistent with the principles of better regulation, the regulatory authority shall, as appropriate, consult transmission system operators and, as appropriate, closely cooperate with other relevant national authorities when carrying out the duties set out in paragraph 1.

Any approvals given by a regulatory authority or ACER under this Directive are without prejudice to any duly justified future use of its powers by the regulatory authority under this Article or to any penalties imposed by other relevant authorities or the Commission.

3 Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in this Article in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:

- a to issue binding decisions on electricity undertakings;
- b to carry out investigations into the functioning of the electricity markets, and to decide upon and impose any necessary and proportionate measures to promote effective competition and ensure the proper functioning of the market. Where appropriate, the regulatory authority shall also have the power to cooperate with the national competition authority and the financial market regulators or the Commission in conducting an investigation relating to competition law;
- c to require any information from electricity undertakings relevant for the fulfilment of its tasks, including the justification for any refusal to grant third-party access, and any information on measures necessary to reinforce the network;
- d to impose effective, proportionate and dissuasive penalties on electricity undertakings not complying with their obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties, including the power to impose or propose the imposition of penalties of up to 10 % of the annual turnover of the transmission system operator on the transmission system operator or of up to 10 % of the annual turnover of the vertically integrated undertaking on the vertically integrated

undertaking, as the case may be, for non-compliance with their respective obligations pursuant to this Directive; and

- e appropriate rights of investigation and relevant powers of instruction for dispute settlement under Article 60(2) and (3).

4 The regulatory authority located in the Member State in which the ENTSO for Electricity or the EU DSO entity has its seat shall have the power to impose effective, proportionate and dissuasive penalties on those entities where they do not comply with their obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties.

5 In addition to the duties conferred upon it under paragraphs 1 and 3 of this Article, when an independent system operator has been designated under Article 44, the regulatory authority shall:

- a monitor the transmission system owner's and the independent system operator's compliance with their obligations under this Article, and issue penalties for non-compliance in accordance with point (d) of paragraph 3;
- b monitor the relations and communications between the independent system operator and the transmission system owner so as to ensure compliance of the independent system operator with its obligations, and in particular approve contracts and act as a dispute settlement authority between the independent system operator and the transmission system owner with respect to any complaint submitted by either party pursuant to Article 60(2);
- c without prejudice to the procedure under point (c) of Article 44(2), for the first ten-year network development plan, approve the investments planning and the multi-annual network development plan submitted at least every two years by the independent system operator;
- d ensure that network access tariffs collected by the independent system operator include remuneration for the network owner or network owners, which provides for adequate remuneration of the network assets and of any new investments made therein, provided they are economically and efficiently incurred;
- e have the powers to carry out inspections, including unannounced inspections, at the premises of transmission system owner and independent system operator; and
- f monitor the use of congestion charges collected by the independent system operator in accordance with Article 19(2) of Regulation (EU) 2019/943.

6 In addition to the duties and powers conferred on it under paragraphs 1 and 3 of this Article, when a transmission system operator has been designated in accordance with Section 3 of Chapter VI, the regulatory authority shall be granted at least the following duties and powers:

- a to impose penalties in accordance with point (d) of paragraph 3 for discriminatory behaviour in favour of the vertically integrated undertaking;
- b to monitor communications between the transmission system operator and the vertically integrated undertaking so as to ensure compliance of the transmission system operator with its obligations;
- c to act as dispute settlement authority between the vertically integrated undertaking and the transmission system operator with respect to any complaint submitted pursuant to Article 60(2);
- d to monitor commercial and financial relations including loans between the vertically integrated undertaking and the transmission system operator;

- e to approve all commercial and financial agreements between the vertically integrated undertaking and the transmission system operator on the condition that they comply with market conditions;
- f to request a justification from the vertically integrated undertaking when notified by the compliance officer in accordance with Article 50(4), such justification including, in particular, evidence demonstrating that no discriminatory behaviour to the advantage of the vertically integrated undertaking has occurred;
- g to carry out inspections, including unannounced ones, on the premises of the vertically integrated undertaking and the transmission system operator; and
- h to assign all or specific tasks of the transmission system operator to an independent system operator appointed in accordance with Article 44 in the case of a persistent breach by the transmission system operator of its obligations under this Directive, in particular in the case of repeated discriminatory behaviour to the benefit of the vertically integrated undertaking.

7 The regulatory authorities, except where ACER is competent to fix and approve the terms and conditions or methodologies for the implementation of network codes and guidelines under Chapter VII of Regulation (EU) 2019/943 pursuant to Article 5(2) of Regulation (EU) 2019/942 because of their coordinated nature, shall be responsible for fixing or approving sufficiently in advance of their entry into force at least the national methodologies used to calculate or establish the terms and conditions for:

- a connection and access to national networks, including transmission and distribution tariffs or their methodologies, those tariffs or methodologies shall allow the necessary investments in the networks to be carried out in a manner allowing those investments to ensure the viability of the networks;
- b the provision of ancillary services which shall be performed in the most economic manner possible and provide appropriate incentives for network users to balance their input and off-takes, such ancillary services shall be provided in a fair and non-discriminatory manner and be based on objective criteria; and
- c access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management.

8 The methodologies or the terms and conditions referred to in paragraph 7 shall be published.

9 With a view to increasing transparency in the market and providing all interested parties with all necessary information and decisions or proposals for decisions concerning transmission and distribution tariffs as referred in Article 60(3), regulatory authorities shall make publicly available the detailed methodology and underlying costs used for the calculation of the relevant network tariffs, while preserving the confidentiality of commercially sensitive information.

10 The regulatory authorities shall monitor congestion management of national electricity systems including interconnectors, and the implementation of congestion management rules. To that end, transmission system operators or market operators shall submit their congestion management rules, including capacity allocation, to the regulatory authorities. Regulatory authorities may request amendments to those rules.

Article 60

Decisions and complaints

1 Regulatory authorities shall have the authority to require transmission system operators and distribution system operators, if necessary, to modify the terms and conditions, including tariffs or methodologies referred to Article 59 of this Directive, to ensure that they are proportionate and applied in a non-discriminatory manner, in accordance with Article 18 of Regulation (EU) 2019/943. In the event of delay in the fixing of transmission and distribution tariffs, regulatory authorities shall have the power to fix or approve provisional transmission and distribution tariffs or methodologies and to decide on the appropriate compensatory measures if the final transmission and distribution tariffs or methodologies deviate from those provisional tariffs or methodologies.

2 Any party having a complaint against a transmission or distribution system operator in relation to that operator's obligations under this Directive may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within two months of receipt of the complaint. That period may be extended by two months where additional information is sought by the regulatory authority. That extended period may be further extended with the agreement of the complainant. The regulatory authority's decision shall have binding effect unless and until overruled on appeal.

3 Any party who is affected and who has a right to complain concerning a decision on methodologies taken pursuant to Article 59 or, where the regulatory authority has a duty to consult, concerning the proposed tariffs or methodologies, may, within two months, or within a shorter period as provided for by Member States, after publication of the decision or proposal for a decision, submit a complaint for review. Such a complaint shall not have suspensive effect.

4 Member States shall create appropriate and efficient mechanisms for regulation, control and transparency so as to avoid any abuse of a dominant position, in particular to the detriment of consumers, and any predatory behaviour. Those mechanisms shall take account of the provisions of the TFEU, and in particular Article 102 thereof.

5 Member States shall ensure that the appropriate measures are taken, including administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons responsible where confidentiality rules imposed by this Directive have not been respected.

6 Complaints referred to in paragraphs 2 and 3 shall be without prejudice to the exercise of rights of appeal under Union or national law.

7 Decisions taken by regulatory authorities shall be fully reasoned and justified to allow for judicial review. The decisions shall be available to the public while preserving the confidentiality of commercially sensitive information.

8 Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of a regulatory authority has a right of appeal to a body independent of the parties involved and of any government.

Article 61

Regional cooperation between regulatory authorities on cross-border issues

1 Regulatory authorities shall closely consult and cooperate with each other, in particular within ACER, and shall provide each other and ACER with any information necessary for the fulfilment of their tasks under this Directive. With respect to 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 suppliers in different Member States;
- b coordinate the joint oversight of entities performing functions at regional level;
- c coordinate, in cooperation with other involved authorities, the joint oversight of national, regional and European resource adequacy assessments;
- d coordinate the development of all network codes and guidelines for the relevant transmission system operators and other market actors; and
- e coordinate the development of the rules governing the management of congestion.

3 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 competence.

5 The Commission is empowered to adopt delegated acts in accordance with Article 67 in order to supplement this Directive by establishing guidelines on the extent of the duties of regulatory authorities to cooperate with each other and with ACER.

Article 62

Duties and powers of regulatory authorities with respect to regional coordination centres

1 The regional regulatory authorities of the system operation region in which a regional coordination centre is established shall, in close coordination with each other:

- a approve the proposal for the establishment of regional coordination centres in accordance with Article 35(1) of Regulation (EU) 2019/943;
- b approve the costs related to the activities of the regional coordination centres, which are to be borne by the transmission system operators and to be taken into account in the calculation of tariffs, provided that they are reasonable and appropriate;
- c approve the cooperative decision-making process;
- d ensure that the regional coordination centres are equipped with all the necessary human, technical, physical and financial resources for fulfilling their obligations under this Directive and carrying out their tasks independently and impartially;

- e propose jointly with other regulatory authorities of a system operation region possible additional tasks and additional powers to be assigned to the regional coordination centres by the Member States of the system operation region;
 - f ensure compliance with the obligations under this Directive and other relevant Union law, in particular as regards cross-border issues, and jointly identify non-compliance of the regional coordination centres with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;
 - g monitor the performance of system coordination and report annually to ACER in this respect in accordance with Article 46 of Regulation (EU) 2019/943.
- 2 Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraph 1 in an efficient and expeditious manner. For this purpose, the regulatory authorities shall have at least the following powers:
- a to request information from the regional coordination centres;
 - b to carry out inspections, including unannounced inspections, at the premises of the regional coordination centres;
 - c to issue joint binding decisions on the regional coordination centres.
- 3 The regulatory authority located in the Member State in which a regional coordination centre has its seat shall have the power to impose effective, proportionate and dissuasive penalties on the regional coordination centre where it does not comply with its obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or shall have the power to propose that a competent court impose such penalties.

Article 63

Compliance with the network codes and guidelines

- 1 Any regulatory authority and the Commission may request the opinion of ACER on the compliance of a decision taken by a regulatory authority with the network codes and guidelines referred to in this Directive or in Chapter VII of Regulation (EU) 2019/943.
- 2 ACER shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within three months of the date of receipt of the request.
- 3 Where the regulatory authority which has taken the decision does not comply with ACER's opinion within four months of the date of receipt of that opinion, ACER shall inform the Commission accordingly.
- 4 Any regulatory authority may inform the Commission where it considers that a decision relevant for cross-border trade taken by another regulatory authority does not comply with the network codes and guidelines referred to in this Directive or in Chapter VII of Regulation (EU) 2019/943 within two months of the date of that decision.
- 5 Where the Commission, within two months of having been informed by ACER in accordance with paragraph 3, or by a regulatory authority in accordance with paragraph 4, or, on its own initiative, within three months of the date of the decision, finds that the decision of a regulatory authority raises serious doubts as to its compatibility with the network codes

and guidelines referred to in this Directive or in Chapter VII of Regulation (EU) 2019/943, the Commission may decide to examine the case further. In such a case, it shall invite the regulatory authority and the parties to the proceedings before the regulatory authority to submit observations.

6 Where the Commission takes a decision to examine the case further, it shall, within four months of the date of such decision, issue a final decision:

- a not to raise objections against the decision of the regulatory authority; or
- b to require the regulatory authority concerned to withdraw its decision on the basis that network codes and guidelines have not been complied with.

7 Where the Commission has not taken a decision to examine the case further or a final decision within the time-limits set in paragraphs 5 and 6 respectively, it shall be deemed not to have raised objections to the decision of the regulatory authority.

8 The regulatory authority shall comply with the Commission decision requiring it to withdraw its decision within two months and shall inform the Commission accordingly.

9 The Commission is empowered to adopt delegated acts in accordance with Article 67 supplementing this Directive by establishing guidelines setting out the details of the procedure to be followed for the application of this Article.

Article 64

Record keeping

1 Member States shall require suppliers to keep at the disposal of the national authorities, including the regulatory authority, the national competition authorities and the Commission, for the fulfilment of their tasks, for at least five years, the relevant data relating to all transactions in electricity supply contracts and electricity derivatives with wholesale customers and transmission system operators.

2 The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.

3 The regulatory authority may decide to make available to market participants elements of that information provided that commercially sensitive information on individual market players or individual transactions is not released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2014/65/EU.

4 This Article shall not create additional obligations towards the authorities referred to in paragraph 1 for entities falling within the scope of Directive 2014/65/EU.

5 In the event that the authorities referred to in paragraph 1 need access to data kept by entities falling within the scope of Directive 2014/65/EU, the authorities responsible under that Directive shall provide them with the required data.