

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 II

GENERAL RULES FOR THE ORGANISATION OF THE ELECTRICITY SECTOR

Article 3

Competitive, consumer-centred, flexible and non-discriminatory electricity markets

1 Member States shall ensure that their national law does not unduly hamper cross-border trade in electricity, consumer participation, including through demand response, investments into, in particular, variable and flexible energy generation, energy storage, or the deployment of electromobility or new interconnectors between Member States, and shall ensure that electricity prices reflect actual demand and supply.

2 When developing new interconnectors, Member States shall take into account the electricity interconnection targets set out in point (1) of Article 4(d) of Regulation (EU) 2018/1999.

3 Member States shall ensure that no undue barriers exist within the internal market for electricity as regards market entry, operation and exit, without prejudice to the competence that Member States retain in relation to third countries.

4 Member States shall ensure a level playing field where electricity undertakings are subject to transparent, proportionate and non-discriminatory rules, fees and treatment, in particular with respect to balancing responsibility, access to wholesale markets, access to data, switching processes and billing regimes and, where applicable, licensing.

5 Member States shall ensure that market participants from third countries, when operating within the internal market for electricity, comply with applicable Union and national law, including that concerning environmental and safety policy.

Article 4

Free choice of supplier

Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice and shall ensure that all customers are free to have more than one electricity supply contract at the same time, provided that the required connection and metering points are established.

Article 5

Market-based supply prices

1 Suppliers shall be free to determine the price at which they supply electricity to customers. Member States shall take appropriate actions to ensure effective competition between suppliers.

2 Member States shall ensure the protection of energy poor and vulnerable household customers pursuant to Articles 28 and 29 by social policy or by other means than public interventions in the price setting for the supply of electricity.

3 By way of derogation from paragraphs 1 and 2, Member States may apply public interventions in the price setting for the supply of electricity to energy poor or vulnerable household customers. Such public interventions shall be subject to the conditions set out in paragraphs 4 and 5.

4 Public interventions in the price setting for the supply of electricity shall:

- a pursue a general economic interest and not go beyond what is necessary to achieve that general economic interest;
- b be clearly defined, transparent, non-discriminatory and verifiable;
- c guarantee equal access for Union electricity undertakings to customers;
- d be limited in time and proportionate as regards their beneficiaries;
- e not result in additional costs for market participants in a discriminatory way.

5 Any Member State applying public interventions in the price setting for the supply of electricity in accordance with paragraph 3 of this Article shall also comply with point (d) of Article 3(3) and with Article 24 of Regulation (EU) 2018/1999, regardless of whether the Member State concerned has a significant number of households in energy poverty.

6 For the purpose of a transition period to establish effective competition for electricity supply contracts between suppliers, and to achieve fully effective market-based retail pricing of electricity in accordance with paragraph 1, Member States may apply public interventions in the price setting for the supply of electricity to household customers and to microenterprises that do not benefit from public interventions pursuant to paragraph 3.

7 Public interventions pursuant to paragraph 6 shall comply with the criteria set out in paragraph 4 and shall:

- a be accompanied by a set of measures to achieve effective competition and a methodology for assessing progress with regard to those measures;
- b be set using a methodology that ensures non-discriminatory treatment of suppliers;
- c be set at a price that is above cost, at a level where effective price competition can occur;
- d be designed to minimise any negative impact on the wholesale electricity market;
- e ensure that all beneficiaries of such public interventions have the possibility to choose competitive market offers and are directly informed at least every quarter of the availability of offers and savings in the competitive market, in particular of dynamic electricity price contracts, and shall ensure that they are provided with assistance to switch to a market-based offer;
- f ensure that, pursuant to Articles 19 and 21, all beneficiaries of such public interventions are entitled to, and are offered to, have smart meters installed at no extra upfront cost

- to the customer, are directly informed of the possibility of installing smart meters and are provided with necessary assistance;
- g not lead to direct cross-subsidisation between customers supplied at free market prices and those supplied at regulated supply prices.

8 Member States shall notify the measures taken in accordance with paragraphs 3 and 6 to the Commission within one month after their adoption and may apply them immediately. The notification shall be accompanied by an explanation of why other instruments were not sufficient to achieve the objective pursued, of how the requirements set out in paragraphs 4 and 7 are fulfilled and of the effects of the notified measures on competition. The notification shall describe the scope of the beneficiaries, the duration of the measures and the number of household customers affected by the measures, and shall explain how the regulated prices have been determined.

9 By 1 January 2022 and 1 January 2025, Member States shall submit reports to the Commission on the implementation of this Article, the necessity and proportionality of public interventions under this Article, and an assessment of the progress towards achieving effective competition between suppliers and the transition to market-based prices. Member States that apply regulated prices in accordance with paragraph 6 shall report on the compliance with the conditions set out in paragraph 7, including on compliance by suppliers that are required to apply such interventions, as well as on the impact of regulated prices on the finances of those suppliers.

10 By 31 December 2025, the Commission shall review and submit a report to the European Parliament and to the Council on the implementation of this Article for the purpose of achieving market-based retail pricing of electricity, together with or followed by a legislative proposal, if appropriate. That legislative proposal may include an end date for regulated prices.

Article 6

Third-party access

1 Member States shall ensure the implementation of a system of third-party access to the transmission and distribution systems based on published tariffs, applicable to all customers and applied objectively and without discrimination between system users. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved in accordance with Article 59 prior to their entry into force and that those tariffs, and the methodologies — where only methodologies are approved — are published prior to their entry into force.

2 The transmission or distribution system operator may refuse access where it lacks the necessary capacity. Duly substantiated reasons shall be given for such refusal, in particular having regard to Article 9, and based on objective and technically and economically justified criteria. Member States or, where Member States have so provided, the regulatory authorities of those Member States, shall ensure that those criteria are consistently applied and that the system user who has been refused access can make use of a dispute settlement procedure. The regulatory authorities shall also ensure, where appropriate and when refusal of access takes place, that the transmission system operator or distribution system operator provides relevant information on measures that would be necessary to reinforce the network. Such information shall be provided in all cases when access for recharging points has been denied. The party requesting such information may be charged a reasonable fee reflecting the cost of providing such information.

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3 This Article shall also apply to citizen energy communities that manage distribution networks.

Article 7

Direct lines

- 1 Member States shall take the measures necessary to enable:
 - a all producers and electricity supply undertakings established within their territory to supply their own premises, subsidiaries and customers through a direct line, without being subject to disproportionate administrative procedures or costs;
 - b all customers within their territory, individually or jointly, to be supplied through a direct line by producers and electricity supply undertakings.
- 2 Member States shall lay down the criteria for the grant of authorisations for the construction of direct lines in their territory. Those criteria shall be objective and non-discriminatory.
- 3 The possibility of supplying electricity through a direct line as referred to in paragraph 1 of this Article shall not affect the possibility of contracting electricity in accordance with Article 6.
- 4 Member States may issue authorisations to construct a direct line, subject either to the refusal of system access on the basis, as appropriate, of Article 6 or to the opening of a dispute settlement procedure under Article 60.
- 5 Member States may refuse to authorise a direct line if the granting of such an authorisation would obstruct the application of the provisions on public service obligations in Article 9. Duly substantiated reasons shall be given for such a refusal.

Article 8

Authorisation procedure for new capacity

- 1 For the construction of new generating capacity, Member States shall adopt an authorisation procedure, which shall be conducted in accordance with objective, transparent and non-discriminatory criteria.
- 2 Member States shall lay down the criteria for the grant of authorisations for the construction of generating capacity in their territory. In determining appropriate criteria, Member States shall consider:
 - a the safety and security of the electricity system, installations and associated equipment;
 - b the protection of public health and safety;
 - c the protection of the environment;
 - d land use and siting;
 - e the use of public ground;
 - f energy efficiency;
 - g the nature of the primary sources;
 - h the characteristics particular to the applicant, such as technical, economic and financial capabilities;
 - i compliance with measures adopted pursuant to Article 9;

- j the contribution of generating capacity to meeting the overall Union target of at least a 32 % share of energy from renewable sources in the Union's gross final consumption of energy in 2030 referred to in Article 3(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council⁽⁴⁾;
- k the contribution of generating capacity to reducing emissions; and
- l the alternatives to the construction of new generating capacity, such as demand response solutions and energy storage.

3 Member States shall ensure that specific, simplified and streamlined authorisation procedures exist for small decentralised and/or distributed generation, which take into account their limited size and potential impact.

Member States may set guidelines for that specific authorisation procedure. Regulatory authorities or other competent national authorities, including planning authorities, shall review those guidelines and may recommend amendments thereto.

Where Member States have established particular land use permit procedures applying to major new infrastructure projects in generation capacity, Member States shall, where appropriate, include the construction of new generation capacity within the scope of those procedures and shall implement them in a non-discriminatory manner and within an appropriate time frame.

4 The authorisation procedures and criteria shall be made public. Applicants shall be informed of the reasons for any refusal to grant an authorisation. Those reasons shall be objective, non-discriminatory, well-founded and duly substantiated. Appeal procedures shall be made available to applicants.

Article 9

Public service obligations

1 Without prejudice to paragraph 2, Member States shall ensure, on the basis of their institutional organisation and with due regard to the principle of subsidiarity, that electricity undertakings operate in accordance with the principles of this Directive with a view to achieving a competitive, secure and environmentally sustainable market for electricity, and shall not discriminate between those undertakings as regards either rights or obligations.

2 Having full regard to the relevant provisions of the TFEU, in particular Article 106 thereof, Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, including the security of supply, regularity, quality and price of supplies and environmental protection, including energy efficiency, energy from renewable sources and climate protection. Such obligations shall be clearly defined, transparent, non-discriminatory and verifiable, and shall guarantee equality of access for electricity undertakings of the Union to national consumers. Public service obligations which concern the price setting for the supply of electricity shall comply with the requirements set out in Article 5 of this Directive.

3 Where financial compensation, other forms of compensation and exclusive rights which a Member State grants for the fulfilment of the obligations set out in paragraph 2 of this Article or for the provision of universal service as set out in Article 27 are provided, this shall be done in a non-discriminatory and transparent way.

4 Member States shall, upon implementation of this Directive, inform the Commission of all measures adopted to fulfil universal service and public service obligations, including

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consumer protection and environmental protection, and their possible effect on national and international competition, whether or not such measures require a derogation from this Directive. They shall subsequently inform the Commission every two years of any changes to those measures, whether or not they require a derogation from this Directive.

5 Member States may decide not to apply Articles 6, 7 and 8 of this Directive insofar as their application would obstruct, in law or in fact, the performance of the obligations imposed on electricity undertakings in the general economic interest and insofar as the development of trade would not be affected to such an extent as would be contrary to the interests of the Union. The interests of the Union include, inter alia, competition with regard to customers in accordance with Article 106 TFEU and this Directive.

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- (1) Directive (EU) 2018/2001 of the European Parliament and the Council of 11 December 2018 on the promotion of the use of energy from renewable sources ([OJ L 328, 21.12.2018, p. 82](#)).