Implementing the Community acquis in the Ukrainian power sector

Euracoal: Quo vadis Ukraine?

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Key aims

1. **Attract investment in power generation and networks** in order to ensure stable and continuous energy supply that is essential for economic development and social stability
2. **Create an integrated energy market** allowing for cross-border energy trade and integration with the EU market
3. **Enhance the security of supply**
4. **Improve the environmental situation** in relation with energy supply in the region
5. **Enhance competition at regional level** and exploit economies of scale
The common legal framework

- **Gas** (Third package) (2 Directives, 2 Regulations)
- **Electricity** (Third package) (2 Directives, 3 Regulations)
- **Environment** (5 Directives)
- **Competition** (some provisions of the Treaty)
- **Renewable energy sources** (RES Directive)
- **Energy efficiency** (3 Framework Directives, 9 Technical Regulations)
- **Antitrust and state aid** (some provisions of the Treaty)
- **Statistics** (1 Directive, 1 Regulation)
- **Oil** (1 Directive)
Main upcoming legislative work

Energy Statistics – by 31st December 2013


Third Package on electricity / gas – by 1st January 2015

+ missing rules from “Second Package” was due for 1st January 2012

Large Combustion Plants Directive – by 31st December 2017

Sulphur in Fuels Directive was due for 31st December 2011 !!

Energy Efficiency was due for 31st December 2012!!

Oil stocks – by 1st January 2023
State of play:

- Current rules regarding authorization of new generation capacity; third party access to infrastructure; eligibility to switch supplier; market opening and price regulation; and market balancing are still to a large extent not compliant with the Second Energy Package

- The new Electricity Market Law is a significant improvement, but is not sufficient to transpose the Second Package; Implementation only by 2017!!

- Unbundling: Practical implementation still missing - in particular in distribution where system operation is bundled with the supply; further unbundling will be necessary for Third Package

- Eligibility of customers for switching supply – Missing rules; In practice there is very little switching and only under NERC approval.

- Vulnerable customers are not treated adequately: only a general scheme of non-selective cross-subsidies or from the State budget for certain categories of customers

- The new Electricity Market Law is a significant improvement, but is not sufficient to transpose the Second Package; Implementation only by 2017!!

- Third Party Access to Networks - cross-border capacity allocation subject to serious shortcomings (open infringement procedure)
Transposition of Electricity acquis

Ukraine 2014 - ELECTRICITY

- Unbundling
- Third Party Access
- Eligibility
- Market Opening
- Balancing
- Customer protection

Transposition
Implementation of Electricity acquis

Ukraine 2014 - ELECTRICITY

- Authorisation and tendering
- Unbundling
- Third Party Access
- Eligibility
- Market Opening
- Balancing
- Customer protection
Implementation Report Conclusions – Electricity (2)

Priorities:

- Unbundling of Ukrenergo and Oblenergos
- Tariff reform (a broad deregulation is needed across the sector)
- Abandoning market model (Energorynok)
- The Third Package needs to be transposed in due time - The Secretariat has submitted a Third Package-compliant electricity law to the Energy Ministry in September 2014
- Required secondary legislation to be developed and adopted
- NERC and Ukrenergo to adopt rules on cross-border capacity allocation compliant with the acquis (open infringement procedure)
- Transposition of the Third Energy Package – The Secretariat has submitted a Third Package-compliant electricity law to the Energy Ministry in September 2014
State of play

- **Legislation** relevant for the energy sectors is **fragmented**
- Regulated prices for domestic gas production impede full market opening
- The current **Gas Law is not fully compliant with the Third Package** - rules on unbundling, third party access, tariff principles, competences of NERC and price regulation need to be implemented
- **Unbundling** - Functional unbundling of Ukrtransgaz (independent management, development grid decisions, day-to-day activities) not yet ensured
- **Third Party Access** – No TPA services; the major deficiency of the current regulatory set up is denying NERC (the Regulator) to regulate gas transit
- **Security of supply** – the definition of minimum security of supply standards and protected customers, up-to-date national emergency measures, a list of instruments for security of gas supply and transparent provisions for reporting and monitoring security of supply are missing
Implementation of gas acquis
Priorities:

Abandon Decree No.596 on natural gas procurement

Fully implemented unbundling

NERC competences over transit

- Implementation of the Third Energy Package for gas – The Secretariat has submitted a Third Package-compliant gas law in April 2014, but no progress to date
**Implementation Report Conclusions – Renewables (1)**


**Priorities:**

- Binding target of 11% of RES in gross final energy consumption by 2020 (from 5.5% in 2009) **not yet transposed into national law**
- Local content requirement is a concern for the Secretariat (infringement procedure under preparation)
- A smarter and more robust RES support is needed, tailored for UA
Implementation Report Conclusions – Energy Efficiency

**Acquis:**

Directive 2006/32/EC on Energy End Use Efficiency And Energy Services – **not in compliance**


Directive 2010/30/EU on Labelling of Energy-Related Products and implementing directives/delegated acts – **partly in compliance**

**Priorities:**

- Adoption of the first Energy Efficiency Action Plan, the Law on Efficient Use of Fuel and Energy Resources, the Law on Energy Service Companies, the Law on Energy Efficiency in Public and Residential Buildings

- The development of Regulations for full implementation of the Energy Performance Directive
Energy Community Secretariat

Implementation Report Conclusions – Environment

- Environmental Impact Assessment Directive – not fully implemented (new law currently pending)

- The Sulphur in Fuels Directive - not transposed; Both the thresholds and the rules on sampling and analysis are not in line with the Directive. Roadmap adopted in 2012 with deadlines up to 2017 not in line with Accession Protocol (open infringement procedure)

- Preparations to implement the Large Combustion Plants Directive (draft National Emission Reduction Plan) are ongoing; deadline: end 2017

- Ministerial Council decision in 2013 on the implementation of the Industrial Emissions Directive (more stringent successor of the Large Combustion Plants Directive); deadline - 1 January 2018 for new plants exclusively
• Directive on maintaining minimum stocks of crude oil and/or petroleum products: **deadline January 2023**
  - 2010 draft Law on Minimum Oil and Oil Products Stocks was rejected by Government
  - Transposition of Directive envisaged by the end of 2016
Ukrainian peculiarities

- Governmental Decrees interfering into laws
- Abolition of institutions when changing the management
- Weak Ministry of Coal and Energy
- Interruption of legislative processes following personal changes
- Lack of coordination among institutions
- Favouring of strategies, not laws
- Overlapping of laws without repealing provisions

but

Respect of institutions and rules + true will to follow European values
Thank you for your attention!

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