

Highlights of EU Energy Law and Policy

An Audio–Visual E–Book

Edited by: Leigh Hancher, Anne–Marie Kehoe, and Kaisa Huhta

Graphic Designer: Giorgio Giamberini



THE OBJECTIVE

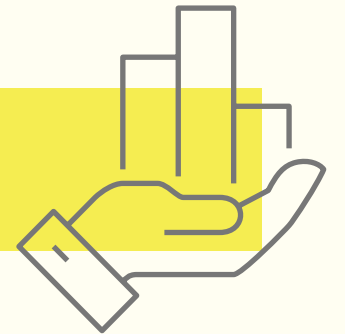
In an effort to reframe how we communicate research and critical thinking, the purpose of this publication is to provide an open-access e-book which guides you through the significant issues currently at play in EU energy law and policy, connecting the dots between several online initiatives of the Energy Union Law Area and contextualising the material in the wider framework of EU law. The materials span a range of media, drawing from our webinar series, our long-form podcast series, our video lectures, and a selection of our publications, each of which acts as an ‘e-chapter’ which gives an in-depth insight into a development in the field. This publication is intended to be a living document which will evolve with the changing narrative of EU energy law and policy.

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EU ENERGY POLICY AND THE GOVERNANCE OF THE EU ENERGY SECTOR

2



ECONOMIC SUPPORT FOR THE ENERGY SECTOR

3



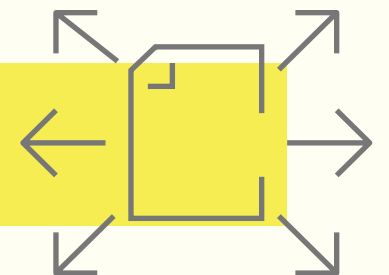
REGULATING THE ENERGY VALUE CHAIN IN THE EU

3.1 WHOLESALE MARKETS

3.2 NETWORKS

3.3 RETAIL MARKETS

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THE EXTERNAL DIMENSIONS OF EU ENERGY LAW

1

EU Energy Policy and the Governance of the EU Energy Sector



The objectives of EU energy policy are to ensure the functioning of the energy market and security of supply as well as to promote the interconnection of energy networks, energy efficiency, energy saving and the development of new and renewable forms of energy.

The legal framework on the governance of the energy sector is aimed at ensuring that these energy policy objectives are met.

In the following two podcasts, the former director of DG Energy at the European Commission Jean Arnold Vinois and professor Helmut Schmitt von Sydow explain what energy governance is and how it is pursued in the EU.

ENERGY UNION GOVERNANCE | JEAN ARNOLD VINOIS



“ENERGY UNION” FOR THE EUROPEAN UNION | HELMUT SCHMITT VON SYDOW

You can find more on the origins of the Energy Union [here](#) and [here](#).

In practice, EU energy policy is implemented in sector-specific legal instruments that deal with various aspects of energy. The most recent cluster of sector specific legal instruments is the Clean Energy for All Europeans Package, which includes several regulations and directives that address the energy markets.

In the following podcasts and webinars, the most recent legal approaches and other topical recent developments are discussed and analysed.

**ELECTRICITY STORAGE IN EU ENERGY LAW:
A FOCUS ON THE CLEAN ENERGY PACKAGE | DR. RUVEN FLEMING**



**RENEWABLE ENERGY: AFTER 2020? | FSR & HERI CONFERENCE ON EUROPEAN ENERGY
LAW**



**WEBINAR: CARBON PRICING IN EUROPE - THE ECONOMIC FRAMEWORK FOR
COMPENSATION | FABIEN ROQUES**



**THE CHANGING ROLE OF DSOS IN THE CLEAN ENERGY PACKAGE A MEMBER STATE'S
PERSPECTIVE | ELINA HAUTAKANGAS AND TATU PAHKALA**



**THE ROLE OF THE LULUCF AND EFFORT-SHARING REGULATIONS IN EU'S CLEAN ENERGY
TRANSITION | DR SEITA ROMPPANEN**



**THE ROLE OF THE ENERGY SOLIDARITY PRINCIPLE AND FDI SCREENING IN EU
ENERGY LAW & POLICY | DR LEONIE REINS**



In the following video, Dr Francesco Salerno and Professor Leigh Hancher discuss recent decisions from the European Court of Justice and assess the implications of this case law for EU energy law.


**THE EU ENERGY SECTOR: AN UPDATE ON RECENT ECJ CASE LAW | FRANCESCO SALERNO
AND LEIGH HANCHER**





2

Economic Support for the Energy Sector



Governments spend significant amounts of money to support the ways in which energy is produced and consumed. In EU law, such support is addressed through the extensive State aid regime. In the following four video lectures, professor Leigh Hancher explains what constitutes State aid in EU law and how these rules operate in the energy sector.



INTRODUCTION TO STATE AID AND THE ENERGY SECTOR | LEIGH HANCHER 1/4



WHAT IS A STATE AID? | LEIGH HANCHER 2/4



STATE AID AND COMPATIBILITY IN THE ENERGY SECTOR | LEIGH HANCHER 3/4



STATE AID PROCEDURES IN THE ENERGY SECTOR | LEIGH HANCHER 4/4

To achieve the EU energy policy objectives regarding renewable energy, Member States commonly grant State aid to support renewable energy projects.

In the following two talks, professor Leigh Hancher explains how the State aid rules apply to renewable energy and the legal advisor of the Danish Energy Agency Dijana Dmitruk discusses a specific case of renewable energy support to solar photovoltaics.



THE APPLICATION OF EU STATE AID RULES TO RES: UNDERSTANDING THE EEAG | LEIGH HANCHER



THE DANISH-GERMAN CROSS-BORDER AUCTIONS ON SOLAR PV | DIJANA DMITRUK

In the following podcasts, appeals against decisions on the compatibility of State aid to the EU internal market are discussed. These include a review of AG Hogan's opinion on State aid to the UK's new nuclear power plant Hinkley Point C, and the implications of an annulment by the European Court of Justice of an EU Commission decision that a German law on renewable energy (EEG 2012) involved State aid.

STATE AID TO HINKLEY POINT: AN UPDATE | LEIGH HANCHER



STATE AID CONTROL: THE CASE OF THE EEG 2012 | MAX KLASSE



Following the coronavirus crisis, the EU introduced a temporary State aid framework which relaxed the guidelines. In this podcast, Clemens Ziegler outlines the main provisions of this framework.

COVID-19: TEMPORARY STATE AID FRAMEWORK | CLEMENS ZIEGLER



3

Regulating the
Energy Value
Chain in the EU





The EU energy sector is governed by an extensive sector-specific legal framework that aims to deliver competitive, secure and sustainable energy systems. Achieving these objectives requires addressing different types of legal issues at different levels of the energy value chain from wholesale markets, to transmission and distribution networks, to retail markets and, finally, to the end consumers and the demand side.

3.1 Wholesale Markets

The sector-specific rules on wholesale energy markets in the EU aim to facilitate competition by removing barriers to trade and preventing uncompetitive market behaviour.

The general structure and design of the wholesale electricity market is discussed in the following podcast by Christoph Riechmann.



AN ELECTRICITY MARKET DESIGN AT LAST? | CHRISTOPH RIECHMANN

In the EU electricity market design, investment in generation resources relies on market-based price signals. To guarantee security of supply, Member States sometimes intervene with this approach by offering additional State-driven economic incentives to encourage further investment in generation resources. These so-called capacity mechanisms raise a number of issues under EU law. For example, they tend to restrict cross-border trade in electricity, which Dan Roberts discusses in the podcast below.

Capacity mechanisms have also led to disputes in the EU Courts. One of these disputes is discussed by Dan Roberts and professors Leigh Hancher and Jacques Derenne in the following webinar.

CROSS-BORDER PARTICIPATION IN CAPACITY REMUNERATION MECHANISMS | DAN ROBERTS



**THE GB CAPACITY MARKET STANDSTILL: WHAT IS HAPPENING AND WHY?
| DAN ROBERTS, LEIGH HANCHER AND JACQUES DERENNE**



An overview of the legal framework for these capacity mechanisms is available [here](#) and more material on the concept of capacity mechanisms by FSR researchers is available [here](#).





In addition to the facilitation of competition by removing barriers to trade, the sector-specific legal framework for wholesale energy markets aims to prevent uncompetitive market behaviour. Different types of uncompetitive market behaviour are discussed in the following podcast by Dr. Panagiotis Tsangaris and in the webinar by Christoph Riechmann and Matthew Levitt.



CAPACITY WITHDRAWALS IN ELECTRICITY WHOLESALE MARKETS – COMPETITION & REGULATION | PANAGIOTIS TSANGARIS



MARKET ABUSE - PRICE CONTROLS IN THE WHOLESALE ELECTRICITY MARKET | CHRISTOPH RIECHMANN AND MATTHEW LEVITT

There are several legal and policy instruments to address anticompetitive behaviour in the wholesale energy markets. As examples of these instruments, the prevention of market abuse and the facilitation of market integrity and transparency as well as merger control are discussed in the following four podcasts.



THE MARKET ABUSE REGULATION (MAR) | YASMINE LI AND SHANE HENLEY



REMIT IN ITALY | ROSARIA ARANCIO



REGULATING TRANSPARENCY: THE CONCEPT OF CONFIDENTIAL INFORMATION | SOHRA ASKARYAR



MERGER INVESTIGATION: THE GENERAL ELECTRIC/ ALSTOM CASE | GIANNI DE STEFANO AND PIERRE LOAEC

3.2 Networks

The sector-specific rules on energy networks in the EU aim to ensure the secure functioning of the energy systems, non-discrimination between system users and the long-term ability of the system to meet energy demands.

In the EU, non-discrimination between system users is pursued mainly through rules on third party access and unbundling. The rules of unbundling are explained in the following podcast by Christopher Bremme and Sebastian Pooschke.

CEER: UNBUNDLING RULES FOR TSOS & DSOS | CHRISTOPHER BREMME & SEBASTIAN POOSCHKE



Ensuring the functioning of energy trade, especially through cross-border energy networks, is addressed in EU network codes, which are explained and discussed in [this report](#) by Leigh Hancher, Anne-Marie Kehoe and Julius Rumpf and in the following videos.

EU ELECTRICITY NETWORK CODES: GOOD GOVERNANCE IN A NETWORK OF NETWORKS | SASKIA LAVRIJSSEN AND THOMAS KOHLBACHER



LEGAL CHALLENGES OF THE ELECTRICITY NETWORK CODES AND GUIDELINES



An important recent case surrounding the Baltic Cable power line, which interconnects the electric power grids of Germany and Sweden, sheds light on the legal complexities of cross-border interconnections in the EU.

THE BALTIC CABLE CASE | LEIGH HANCHER





3.3 Retail Markets

The sector-specific rules on retail energy markets in the EU aim to facilitate competition by removing barriers to retail trade and preventing uncompetitive market behaviour by suppliers. In addition to the facilitation of competition, the regulation of retail markets emphasises the importance of protecting energy consumers. One example of the ways in which consumers are protected is the regulation of energy prices. Retail price regulation is explained and discussed in the following two podcasts by professor Leigh Hancher and Liliana Eskenazi.



RETAIL MARKET PRICE REGULATION | LEIGH HANCHER



CASE STUDY: REGULATORY MECHANISMS FOR GAS PRICES | LILIANA ESKENAZI

3.4 Consumers and the Demand Side

The sector-specific rules on consumers and the demand side in general focus on two issues: first, the protection of consumers and consumer rights and, second, the activation of the consumers to become more active participants in the energy markets. The following three podcasts discuss examples of both of these issues. The first explores the activation of the demand side from the point of view of aggregators and the second explains the protection of energy consumers' rights from the point of view of data protection.

The third discusses consumer rights in an EU Member State.

AGGREGATORS IN THE CEP: OPPORTUNITIES AND DIFFICULTIES AS ENABLERS FOR DECENTRALISED ACTORS | MAXIMILIAN WIMMER

THE GDPR AND THE ENERGY SECTOR | HIELKE HIJMANS

THE GREEK ENERGY MARKET & CONSUMER RIGHTS | ANTONIS METAXAS



4

The External Dimensions of EU Energy Law



The external dimensions of EU energy law focus on situations in which, on the one hand, international law affects EU energy law and, on the other hand, on situations in which EU energy law has an impact beyond the borders of the EU itself.

EU energy law is influenced by international law, such as international rules on trade and climate change. These international legal regimes are discussed in the following three podcasts by Anna Marhold, Moritz Wüstenberg and Steven Weissman.



ENERGY IN INTERNATIONAL TRADE LAW | ANNA MARHOLD



**REGULATING EU-RUSSIA ENERGY TRADE RELATIONS: THE WTO RULING
| MORITZ WÜSTENBERG**



OBAMA'S CLEAN POWER PLAN AND THE PARIS AGREEMENT | STEVEN WEISSMAN

The impact of EU energy law can extend beyond the borders of the EU because of several reasons. One example of these reasons is an international agreement concluded with a third country, such as the Agreement on the European Economic Area or the Energy Community Treaty. These two legal instruments are discussed in the following two talks by professor Henrik Bjørnebye and Olena Pavlenko.



**EXTENDING THE ENERGY ACQUIS BEYOND EU INSTITUTIONAL CHALLENGES |
HENRIK BJØRNEBYE**



UKRAINE'S INDEPENDENT NATIONAL ENERGY REGULATOR | OLENA PAVLENKO

The natural gas pipelines of North Stream 1&2 are an illustrative case example of the EU exporting its energy law to third countries. This case is discussed in the following three talks by Alan Riley, professor Kim Talus and Szymon Zaręba.

PIPELINES BETWEEN ECONOMICS, LAW AND DIPLOMACY | ALAN RILEY

EU COMMON RULES FOR GAS IMPORT PIPELINES – THE AMENDMENT TO THE GAS DIRECTIVE | KIM TALUS

THE OPAL GAS PIPELINE | SZYMON ZARĘBA

Following a recent judgment from the European Court of Justice to modify the exemption of the OPAL gas pipeline by drawing on the principle of energy solidarity, in the next podcast, Professor Kim Talus, reviews the wider implications of such an interpretation for EU energy law.

THE OPAL CASE AND THE SOLIDARITY PRINCIPLE | KIM TALUS

Finally, the extent of the integration of the EU energy markets is well represented in the challenges facing the United Kingdom, which is due to exit the EU and become a third country in relation to the European Union. This issue, and the implications of Brexit on the internal energy market, is discussed in the following four podcasts.

BREXIT: THE IMPLICATIONS FOR THE INTERNAL ENERGY MARKET | DENI MANTZARI

BREXIT IMPACT ON ENERGY | JEAN ARNOLD VINOIS

BREXIT AND THE EURATOM TREATY | SILKE GOLDBERG

THE IRISH QUESTION: BREXIT AND THE I-SEM | TANYA HARRINGTON





CONTACT

Anne-Marie.Kehoe@eui.eu

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