



CORREGGIO
Consulting

CORREGGIO REGULATORY REPORT

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One-stop-shop for European regulation and market rules compliance

The regulatory environment for European energy traders is becoming increasingly complex. New compliance obligations for energy traders are constantly being put in place on both a European and a national level. At the same time, compliance with national requirements is becoming increasingly difficult as the implementation of EU rules can differ across EU Member States.

Conducting your business activities in the context of this growing and changing regulatory framework can feel like navigating through a “compliance jungle.” Setting up the necessary interfaces and processes to comply with trade reporting requirements and obtaining or extending the right shipper or supply license can feel like trying to cross that jungle without a map.

Regulatory compliance obligations triggered by being a physical gas shipper, electricity grid user, or trader, requires increasing financial resources to meet ever increasing obligations, whereas the current market environment calls for cutting costs.

CorreggioNET

- Facilitates access to new energy markets through the provision of up-to-date information on market access rules and procedures at the wholesale level;
- Offers a comprehensive, structured overview of national regulations triggering compliance obligations for energy market participants in English, and allows for tracking the original sources;
- Enables savings on compliance and reduction in overhead costs through offering continuous regulatory monitoring in energy markets of your choice.

Correggio Consulting, in partnership with PONTON, have consolidated efforts to support you with the CorreggioNET service.

CorreggioNET (CN) offers the following services:

CN Digest Service

Offers regulatory updates on energy market developments through the monthly Correggio Regulatory Report, available upon request as part of the CorreggioNET service.

CN Monitoring Service

Enables subscribers to monitor obligations applicable to the markets in which they are active.

CN Regulatory Hotline Service

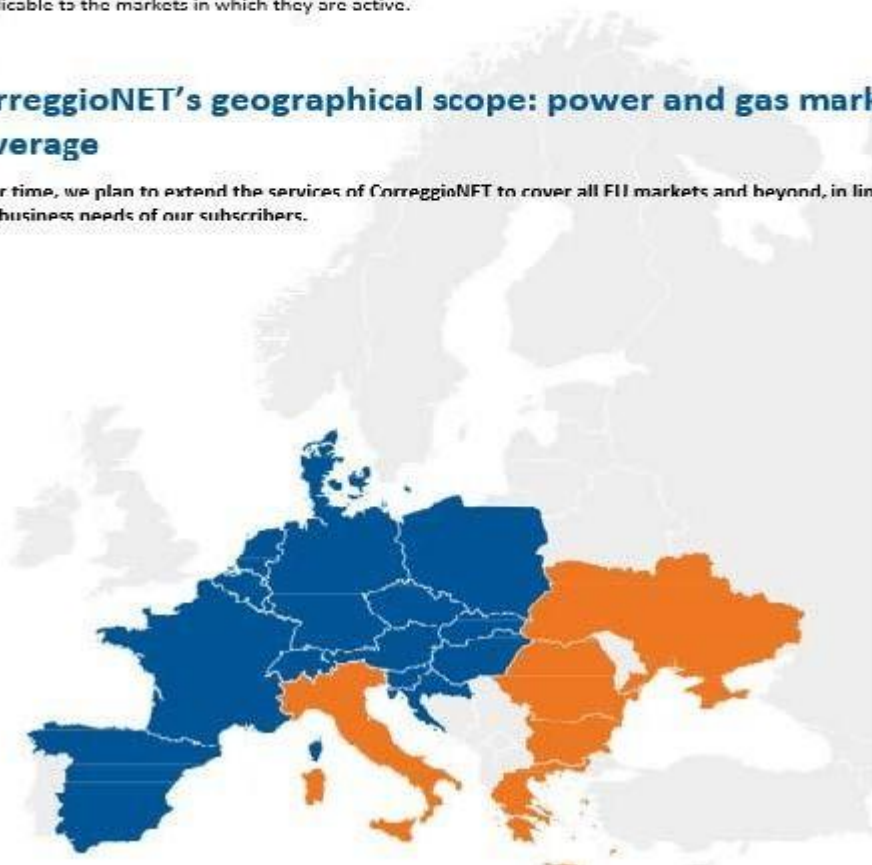
Offers additional information on applicable compliance obligations with a qualified regulatory specialist.

CN Alert Service

Alerts subscribers to new or revised obligations applicable to the markets in which they are active.

CorreggioNET's geographical scope: power and gas market coverage

Over time, we plan to extend the services of CorreggioNET to cover all EU markets and beyond, in line with the business needs of our subscribers.



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LETTER FROM THE EDITOR

22 January

Dear Correggio Digest Reader,

After more than ten years of existence and five years without major changes, we are finally on the move towards the future.

Have a look at the extended content of our monthly Regulatory Digest, which is an integral part of our web-based CorreggioNET regulatory monitoring service package.

As the CorreggioNET service now covers 20 physical gas and power markets, Correggio Digest will grow accordingly and will aim to capture regulatory changes in more countries.

We would appreciate your comments and suggestions on how to improve further this monthly regulatory newsletter for the energy industry, in order to serve better your information needs.

You remain free to subscribe to this newsletter as a stand-alone product. However, conceptually the Correggio Digest complements the interactive CorreggioNET service.

Wishing you happy reading
and a great start to the new year!

Jan Haizmann

Editor of Correggio DIGEST

INSTITUTION

European Commission

DATE

20/12/2019

ISSUE

Gas transit contract via Ukraine

IMPACT

High.

After a sudden change of heart, the trilateral talks among the Commission, Ukraine and Russia saw a positive outcome (read more in our [October](#) edition). On 20 December, the sides agreed on the following:

- Ship-or-pay contract for minimum 65bcm for 2020 (approx. 22bcm less than in 2018);
- Minimum volumes to decrease to 40bcm for the following four years, with further extensions possible;
- 2.9bn USD settlement payable by Gazprom, following the Stockholm arbitration ruling (read more in our [March 2018](#) edition), in exchange for Naftogaz withdrawing any other pending claims.

Despite the new contract being substantially lower than under the previous agreement, the settlement can only be viewed as a success that gives Ukraine and the EU some additional time to adjust to the new reality of gas flows from different directions. Although mutually beneficial, one can only assume that the US decision (through adopting the National Defense Authorization Act) to directly sanction companies constructing Nord Stream 2 (in particular, the Allseas Group) was a very persuasive argument in favour of the new contract.

https://ec.europa.eu/commission/presscorner/detail/en/statement_19_6841

INSTITUTION

European Commission

DATE

18/12/2019

ISSUE

Study on regulatory barriers to sector coupling – final report

IMPACT

Low.

The final report of the consortium of consultants, led by Frontier Economics, carrying out the Commission study provides a comprehensive analysis of existing and potential barriers to a fully-fledged sector integration. It concludes that apart from new regulations, sector coupling will require access to funds supporting R&D in the related technologies and much greater coordination between system operators and Member States. This would be necessary to keep costs low and ensure interoperability of the EU gas network.

Some of the key barriers identified by the consultants include:

- Maturity of the power-to-gas-to-power technologies (high costs and low returns for entities investing in R&D);
- Separate technology- and sector-oriented regulation (potential double taxation; challenge of gas infrastructure stranding increasing the costs of gas consumption, even if natural gas is retained primarily to produce electricity);
- Gas infrastructure regulation (insufficient & unclear rules on gas injections and quality standards; no clear view on potential non-CH₄ network regulation);
- Lack of coordination in power and gas infrastructure planning (high uncertainty in terms of future gas demand; low coordination between the transmission and distribution level; no coordination in terms of infrastructure development planning); and
- EU markets interoperability & integration issues arising from gas quality (potential market fragmentation due to loss of network compatibility and/or uncoordinated infrastructure decommissioning).

<https://op.europa.eu/en/publication-detail/-/publication/60fadfee-216c-11ea-95ab-01aa75ed71a1/language-en/format-PDF>

INSTITUTION

ACER

DATE

08/01/2020

ISSUE

ACER and ENTSOG consultation on harmonisation of capacity platform interfaces

IMPACT

Low.

The lack of common protocols for communication between shippers and capacity booking platforms has been raised as an issue through the Gas Network Codes Functionality (FUNC) platform on grounds that current practices violate the Network Code on Interoperability and Data Exchange Rules (INT NC). The concern has been around for a long time and the reporting company (Equinor) highlighted that using different standards for communication is not in the spirit of INT NC, as it creates a barrier to the flow of gas.

Since not many of the affected entities have access to the FUNC platform, the Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission System Operators for Gas (ENTSOG) - who co-manages the process - have decided to consult a broader audience. Reflecting the most common view from previous discussions, Equinor suggested that the FUNC process will result in recommending Edig@s as a standard communication protocol to be implemented by all capacity booking platforms.

<http://www.gasncfunc.eu/>

<https://www.surveymonkey.com/r/YHDQZR6>

INSTITUTION

ESMA

DATE

06/01/2020

ISSUE

ESMA excludes commodities transactions for operational and industrial purposes from scope of SFTR

IMPACT

Medium.

On 6 January, the European Securities and Markets Authority (ESMA) published Guidelines on reporting under the Securities Financing Transactions Regulation (SFTR), and a related to them report.

Crucially, the Guidelines explicitly exclude commodities transactions entered into for operational and/or industrial purposes and transactions involving emission allowances from the scope of securities financing transactions (SFTs), which means that those transactions do not have to be reported under SFTR. This is based on the understanding that SFTs for operational and/or industrial purpose do not have a financing purpose and do not contribute to the systemic risk addressed by SFTR.

ESMA has also issued related amendments to the respective validation rules and a statement on Legal Entity Identifiers (LEIs).

<https://www.esma.europa.eu/press-news/esma-news/esma-clarifies-sftr-reporting>

INSTITUTION

CRE

DATE

16/01/2020

ISSUE

French regulator issues fine for breach of REMIT

IMPACT

Low.

The Dispute Settlement and Sanctions Committee (CoRDIS) of the French regulator (CRE) has fined BP Gas Marketing Limited (BPGM) for breaching Art. 5 of Regulation (EU) 1227/2011 (Regulation on Wholesale Energy Market Integrity and Transparency, REMIT).

The fine concerns a combination of layering and spoofing - practices which constitute market manipulation under REMIT. The violation took place in the period October 2013 – March 2014 on the French virtual gas trading point PEG Sud. The fine amounts to € 1 million. The decision can be appealed.

In October 2018, CoRDIS imposed a fine of € 5 million on VITOL S.A. for a similar type of market manipulation on PEG Sud and in September 2019, the British regulator Ofgem imposed sanctions amounting to € 2.3 million on Engie Global Markets for spoofing. The Agency for the Cooperation of Energy Regulators (ACER) has issued detailed Guidance on the application of REMIT in relation to layering and spoofing.

<https://www.cre.fr/Documents/Reglements-de-differends/sanction-a-l-encontre-de-la-societe-bp-gas-marketing-limited>

https://documents.acer-remit.eu/wp-content/uploads/Guidance-Note_Layering-v7.0-Final-published.pdf

INSTITUTION

Parliament

DATE

01/01/2020

ISSUE

New regulation package in force since the start of 2020

IMPACT

Medium.

1. Changes to the market rules applicable to gas pipelines at external EU borders (*Änderung des Energiewirtschaftsgesetzes zur Umsetzung der Richtlinie (EU) 2019/692 des Europäischen Parlamentes und des Rates über gemeinsame Vorschriften für den Erdgasbinnenmarkt (BGBl. I 2019, S. 2002)*) enable extraterritorial effect of EU single market rules in relation to pipelines with third countries.
2. The Strategic Oil Reserve Change Act (*Änderung des Erdölbevorratungsgesetzes (BGBl. I 2019 S. 2101)*) delays the calendar for annual strategic storage level reporting from 1 April to 1 July.
3. The Nuclear Change Act provides for new ways to pass on costs for nuclear waste storage management via contracts which are governed under public collection, instead of civil law. This enables operators to claim the costs via regulation (*Änderung des Umweltauditgesetzes, des Atomgesetzes und anderer Gesetze und Verordnungen (BGBl. I 2019, S. 2510)*).
4. Regulation relating to statutory deadlines of the German regulator BNetzA aims to enable the regulator to speed up the process of investment in renewable energy. (*Verordnung zu den Innovationsausschreibungen (BT-Drs. 19/14065)*). Change of § 28 Abs. 6 EEG (RES Act)).

https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl119s2513.pdf#_bgbl_%2F%2F*%5B%40attr.id%3D%27bgbl119s2513.pdf%27%5D_1579539945147

INSTITUTION

BNetzA

DATE

01/01/2020

ISSUE

BNetzA sets new limits for Balancing Responsible Parties

IMPACT

High.

The German regulator BNetzA has set new rules to prevent abuse in the balancing market. As of 15 January, every Balance Responsible Party has to balance its account 15 minutes before delivery, at the latest (register number BK6-19-212). From February, account shortages will be subject to a system of penalties in the context of the balancing account settlement procedure. These extra charges will be fixed in line with the general balancing settlement among the various balancing energy providers.

Cross-border balancing by transmission system operators (TSOs) will be reflected in the calculation of the charge (register number BK6-19-217).

The rules follow three separate investigations and a series of related rulings. The investigations were launched by BNetzA in June 2019, in response to an undersupply of the electricity balancing market, which lasted for several days. The undersupply generated extra profits for some traders, who could take advantage of the created price volatility.

https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1_GZ/BK6-GZ/2019/BK6-19-212_217_218/BK6-19-212_217_218_Aktuelles.html?nn=869698

INSTITUTION

BNetzA and Bundeskartellamt

DATE

19/12/2019

ISSUE

Authorities issue report on risk of abuse of dominant position in electricity generation

IMPACT

Low.

In December, the German competition authority Bundeskartellamt, in conjunction with the energy regulator BNetzA, published their joint annual monitoring report on risks of abuse of dominant position in electricity generation. The authorities came to the conclusion that the only company, which could potentially be a dominant electricity producer is RWE, due to its large share - more than 30% - of electricity generation.

In view of the forthcoming exit from coal and nuclear generation, however, and increased interconnection, the risk of abuse of dominant position is bound to decrease in the future. At the same time, supervision may have to be extended to non-German generators going forward.

https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Meldungen%20News%20Karussell/2019/19_12_2019_Marktmachtbericht.html

INSTITUTION

Federal Government

DATE

11/12/2019

ISSUE

Action plan to address structural grid congestion

IMPACT

Medium.

In December, the Federal Government presented a package of measures with a timeline to reduce domestic structural network congestion and improve cross-border redispatch. On one hand, the action plan outlines measures to increase electricity transmission capacity and speed up network expansion, and on the other, it presents measures for improving congestion management and strengthening cross-border trading.

The measures were developed in relation to the requirement under Art.16 (8) of Regulation (EU) 2019/943, the recast Electricity Regulation, for at least 70% of cross-border transmission capacity to be made available to cross-zonal trade by 1 January 2020. Pursuant to Art. 15(1) and (2) of the Regulation, however, Member States with identified structural grid congestion are allowed to submit an action plan to reduce congestion, giving them the opportunity to reach the required 70% minimum by means of a linear trajectory until 31 December 2025.

https://www.bgb1.de/xaver/bgb1/start.xav?startbk=Bundesanzeiger BGBI &jumpTo=bgb1119s2002.pdf#_bgb1_%2F%2F*%5B%40attr id%3D%27bgb1119s2002.pdf%27%5D_1579540400993

INSTITUTION

Higher District Court of Düsseldorf

DATE

27/11/2019

ISSUE

Court decision on repayment of illegal state aid

IMPACT

Low.

The High District Court of Düsseldorf has settled a complaint against the retroactive reimbursement of illegally received renewable energy sources (RES) benefits for non-German RES generation during 2012/2013. The benefits consisted of an exemption from paying grid fees. The RES state aid benefit system (§ 19 Abs. 2 StromNEV) was declared illegal, as it was found to infringe EU State Aid rules. Its nullification resulted in multiple claims for retroactive repayment of the illegal RES benefits.

The plaintiff – a company which received the benefit - refused to pay for the grid fees, arguing that it had suffered stranded losses due to higher non-German grid fees. The Court rejected the argument that foreign grid costs could reduce the claim to reimburse illegally received RES benefits with retroactive effect. The supply company had to pay all grid fees for the relevant period (register number – 3 Kart 868/18 (V).

INSTITUTION
NERC

DATE
13/01/2020

ISSUE

Lithuanian regulator imposes fine for market manipulation under REMIT

IMPACT

Low.

The Lithuanian regulator NERC has fined UAB Geros dujos for breaching Art. 5 of Regulation (EU) 1227/2011 (Regulation on Wholesale Energy Market Integrity and Transparency, REMIT).

NERC found that the market participant engaged in *marking the close* in the Lithuanian gas market, a behaviour constituting market manipulation under REMIT. On the last day of each month the market participant inserted orders at the energy exchange with the minimum allowed volume at prices significantly different from the prevailing market prices. This affected a reference price to which some of the company's retail customer contracts were indexed, allowing it to extract undue profits.

The fine was established at 7.5% of the market participant's annual revenue. The decision can be appealed. This is the first fine under REMIT for *marking the close*.

<https://www.vert.lt/en/Pages/Updates/2020/-geros-dujos-fined-7-5-of-its-annual-revenue-for-manipulating-the-lithuanian-natural-gas-market-.aspx>

INSTITUTION

ARERA

DATE

27/12/2019

ISSUE

Decision on supplementary gas charges

IMPACT

Medium.

As of 1 January, all system charges have been moved downstream. This is expected to have a positive impact on gas trading and the Italian virtual trading point PSV.

The supplementary charge φ was abrogated in Decision 262/19 and CVFG has become CRVFG, applied to the volumes drawn at redelivery points. The reform is related to the ambition to transform Italy into a gas hub and a transit country.

<https://www.arera.it/it/docs/19/572-19.htm>

[https://www.snam.it/export/sites/snam-rp/repository-srg/file/en/business-services/network-code-tariffs/Gas transmission tariffs/2020 en/Supplementary-Charges 2020 1trim 2.pdf](https://www.snam.it/export/sites/snam-rp/repository-srg/file/en/business-services/network-code-tariffs/Gas%20transmission%20tariffs/2020%20en/Supplementary-Charges%202020%201trim%202.pdf)

INSTITUTION

ARERA

DATE

20/12/2019

ISSUE

Decision on 70% rule derogation

IMPACT

Low.

The Italian regulator ARERA approved the request of the Italian transmission system operator (TSO) Terna to postpone the 70% rule on the implementation of the minimum margin available for cross-zonal trade for the Italy North Capacity Calculation Region (CCR).

The Capacity Allocation and Congestion Management (CACM) Guideline and EU Regulation 2019/943 (recast Electricity Regulation) require the target to be met by 2020. Terna will have to provide quarterly updates on the status of the 70% rule for Italy North CCR.

The French and Austrian TSOs have applied for the same derogation.

<https://www.arera.it/it/docs/19/561-19.htm>

INSTITUTION

ARERA

DATE

21/11/2019

ISSUE

Decision on LNG tariffs for 2020-2023 (5th regulatory period)

IMPACT

Low.

The decision of the Italian regulator ARERA is in line with the consultation carried out by the regulator. The three Italian LNG terminals are increasing their market share as import sources, as a result of the latest auction-based reforms and favourable market conditions.

<https://www.arera.it/it/docs/19/474-19.htm>

INSTITUTION

GME

DATE

30/12/2019

ISSUE

Introduction of weekend product and changes to technical rules

IMPACT

Low.

In a notice from 30 December, the Italian exchange GME reminded market participants that amendments to the Natural Gas Market (MGAS) Rules, as well as related Technical Rules and additional documentation, will be effective for operations as of 1 January (relevant gas-day). The same applies to amendments to the Electricity Market Rules (ME), to the OTC Registration Platform (PCE) Rules and to the Natural Gas Trading Platform (P-GAS) Rules and related Technical Rules (DTF) and additional documentation.

<https://www.mercatoelettrico.org/en/HomePage/popup.aspx?id=414>

<https://www.arera.it/it/docs/19/550-19.htm>

INSTITUTION

Government

DATE

15/01/2020

ISSUE

Romanian Government repeals 2% fee on turnover

IMPACT

High.

The Romanian Government has enacted legislation (Emergency Ordinance GEO 1/2020), repealing the 2% fee on turnover. The fee was introduced by Ordinance GEO 114/2018 a year ago and targeted the energy and other sectors.

A consultation by the Romanian regulator ANRE on the fee methodology for 2020 has also closed recently. In it, the regulator proposed a fee level of 0.1% on turnover (without deductions). It is expected that the proposal will be supported and implemented, ensuring that the fee goes back to the previous levels (previously 0.2% of turnover).

<https://legeaz.net/monitorul-oficial-11-2020/oug-1-2020-masuri-fiscal-bugetare-modificare-completare-acte-normative>

<https://www.anre.ro/ro/presa/comunicate/proiect-de-ordin-privind-aprobarea-tarifelor-si-contributiilor-banesti-percepute-de-anre-in-anul-20201578574620>

INSTITUTION

ANRE

DATE

20/12/2019

ISSUE

ANRE adopts provisions allowing electricity trading outside the regulated market

IMPACT

High.

On 20 December, Order 236/2019 was published in the Official Gazette No. 1029. It contains rules for the elimination and/or mitigation of the impact of measures or policies that may contribute to restricting the formation of prices on the wholesale electricity market, including provisions which suggest that trading outside the regulated market (OPCOM) may be allowed. The wording, however, is not very clear, which has caused some confusion in the market as to how it should be interpreted.

The Order aims to bring the Romanian electricity market design in compliance with Regulation 2019/943 (the recast Electricity Regulation). However, in contrast, the Romanian Energy Law 123/2012 still contains the requirement for all trading to be performed on the regulated market.

<http://www.expert-monitor.ro/LexMonitor/Demo/index.jsp>

INSTITUTION

CNMC

DATE

19/12/2019

ISSUE

Decisions on gas tariffs, gas capacity allocation, LNG, electricity transmission and distribution tariffs, electricity balancing

IMPACT

High.

The regulatory impact of the now published decisions of the Spanish regulator CNMC is high and far-reaching.

On the gas side, the changes include amendments to the balancing system and a virtual tank for LNG starting in April. Gas tariffs and the full reform of the gas system will be introduced as of October. The LNG terminals are running at almost full capacity and the reforms may turn the Iberian LNG market into a benchmark for the rest of the EU. These developments are positive and are expected to improve liquidity.

In relation to power, decisions and consultations on balancing and price caps are raising concerns about the implementation of EU regulations and the overall trading environment, creating a risk of an uneven playing field for Spanish market participants.

<https://www.cnmc.es/novedad/Circular-definitiva-1-2020-20200116>

https://www.omie.es/sites/default/files/inquiry_files/consulta_pmax_pmin_espanol.pdf

INSTITUTION

Government (Infrastructure Ministry)

DATE

28/11/2019

ISSUE

Changes to Energy Act

IMPACT

Medium.

In December 2019, the Ministry for Infrastructure proposed further amendments to the Energy Act. The proposed changes transpose into Slovenian law Directive EU 2019/692, amending and supplementing Directive 2009/73/ EC on common rules for the internal market in natural gas.

The amendments aim to ensure that rules applicable to transmission pipelines between EU Member States apply equally to transmission pipelines with third countries. The draft foresees a special procedure where the European Commission has to approve the negotiating positions and the signing of international agreements with third countries prior to the conclusion of the agreements.

Furthermore, the proposed amendments add a new Article 381a, which provides a legal basis for the promotion of measures encouraging the use of alternative fuels in transport (e.g. subsidies for the purchase of alternative fuel vehicles).

Implementation is scheduled for 1 February.

<https://www.gov.si/zbirke/javne-objave/kontejnerski-odvoz-odpadkov/>



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