

Ukraine: new regulator of the energy sector

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On 22 September, the Ukrainian parliament adopted a law on the appointment of a new National Commission for the Regulation of the Energy Sector and Communal Services. The newly created Regulator – in contrast to the existing one, which does not meet the criteria of independence – is intended to be free from political pressure. It should act as an arbitrator in disputes between consumers, producers and suppliers of energy & the state (the value of the financial operations in these sectors is estimated at US\$12-16 billion). On the same day Parliament adopted a law on the electricity market, on the first reading, which is intended to introduce a free electricity market in Ukraine (the law's final adoption is expected by the end of this year).

Commentary

- The adoption of the Law on the Regulator is a desirable step from the point of view of the continuation of reforms in the energy sector, even though it has come late and was forced by the international community. In recent weeks, representatives of the Energy Community, the European Commission and the IMF (among others) intensified their pressure on the Ukrainian parliament to finally pass a law (the first reading took place in spring), and made the activation of a macro-financial assistance package from the EU amounting to €600 million conditional upon doing so. The law is crucial to increase transparency and reduce corruption and abuses in the energy sector. The independent regulator should, together with the laws on the gas (adopted this April) and electricity markets, lay the foundation for a reformed energy sector in Ukraine.
- The independence of the new Commission is to be achieved by funding it from contributions paid by market participants (this was hitherto done from the state budget), tightening the criteria for future members (who may not be members of political parties, former presidents of companies or businessmen whose activity is regulated by the commission, among others) and their selection by a committee. However, amendments to the Act, made the day before the vote, reduced the independence of the Commission in the light of the present political distribution. The principle of two members of the Committee being nominated by Parliament, two by the President and one by the Ministry of Energy, in practice means that the presidential camp will retain control over the Regulator. In addition, the full replacement of the present members of the Commission will only be possible within 18 months. Since December 2014, the President of the Commission has been Dmytro Vovk, a former manager in Poroshenko's Roshen group,

and the body itself has been criticised for its dependence on the government and for taking decisions favouring oligarchs who work with the presidential camp.

- The adoption on the first reading of the law on the electricity market has unblocked the process of drawing up a final version of the document. The law envisages the elimination of the current model, based on the monopoly of the state company Enerhorynok of the purchase and sale of all electricity. Ultimately, Ukraine is expected to introduce a model for organising the sector based on the principles of the EU's Third Energy Package. The new model calls for the free movement of electricity, direct contracts between producer and consumer, unrestricted selection of energy suppliers, as well as intra-day and day-ahead markets. However, it should be expected that lobbying by business and political groups will delay the adoption of the document, and will weaken its reformist nature.