

CEER Citizens' Q&A

Safeguarding the independence of regulators:

Insights from Europe's energy regulators on powers, resources, independence, accountability and transparency

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1 What do we mean by regulators' organisational framework?

In this report, CEER looks at three aspects relating to the organisation of National Regulatory Authorities (NRAs): first, the duties and powers which regulators have and how they deal with these in terms of resources; second, the frameworks in place to safeguard the independence of NRAs; and third, the accountability and transparency of regulators. These three aspects are closely interlinked.

2 How does it work?

For well-functioning internal energy market, it is important to have independent energy regulators who will ensure that the rules are applied. The EU energy law provides the uniform basis for core NRAs activities, however considerable differences remain among NRAs. The report captures the insights on how energy regulators are organised based on their perception. The current situation in terms of their powers, resources, independence, accountability and transparency is described. The report points out to gaps and issues which could be improved but also shows good practices among NRAs.

3 What does the report propose for NRAs' organisational frameworks?

The report investigates the framework conditions under which NRAs operate and then extracts several recommendations. The recommendations are meant to improve the NRAs' working conditions with the aim to live up to the high standards which society places on regulatory authorities.

The main recommendations in the 4 areas studied in the report are:

- 1 NRA tasks and powers
 - Member States should fully implement the EU energy legislative requirements;
 - NRAs should have the power to issue the final and binding decisions that are not subject to ministerial scrutiny.
- 2 NRA resource comparisons
 - In order to carry on a study on NRA comparisons, CEER Principles for regulatory performance assessment should be consulted.
- 3 Independence
 - The national law should explicitly state the NRAs independence from industry and politics;
 - It is recommended as a good practice that NRAs have a code of conduct;

- When the NRA head or the board is changed, the current head/board should still finish its term;
 - NRAs budgetary autonomy should be safeguarded.
- 4 Accountability and transparency
- An external auditor should perform the ex-post control of annual accounts (no role for the government);
 - NRAs should have a clear public consultation policy and it should be made transparent.

4 Why is this report important for energy customers? What is the impact on energy customers?

Energy customers must be able to rely on properly working regulators in their countries. Part of the regulators' internal functioning is laid down in a variety of laws, while other aspects are at the NRAs' own discretion. In the case of the former, certain characteristics make it difficult for NRAs to carry out their duties properly, independently and transparently, whilst the latter is a field where NRAs can learn from each other to further improve.

The report serves to improve the organisation of regulators in both areas by drawing the attention of lawmakers and other authorities to aspects where there is room for improvement within a country's legal framework and by bringing good practices that have been tried and tested across Europe, to the attention of the NRAs.