



Status review of the definitions of vulnerable customer, default supplier and supplier of last resort

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INFORMATION PAGE

Abstract

This document (E09-CEM-26-04) is an ERGEG status review of the definitions of vulnerable customer, default supplier and supplier of last resort.

This report should be considered as an analysis of the state of play in the ERGEG member and observer countries as regards these issues and Article 3 obligations in the Electricity and Gas Directives (2003/54/EC and Directive 2003/55/EC, respectively). This work was undertaken following a request from the first Citizens' Energy Forum in London in October 2008.

Target Audience

Consumer representative groups, distribution system operators, energy suppliers, energy customers, energy industry, policy-makers, academics and other interested parties are the target audience for this status review.

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Related Documents

- "End-user energy price regulation: An ERGEG Position Paper (E07-CPR-10-03) 18 July 2007. http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-10-03_E-UPriceReg_0.pdf

External documents

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF>
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:0136:EN:PDF>
- Directive of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC. <http://register.consilium.europa.eu/pdf/en/09/st03/st03648.en09.pdf>

- Directive of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.
<http://register.consilium.europa.eu/pdf/en/09/st03/st03649.en09.pdf>
- Directive 2003/54/EC for internal market in electricity <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:176:0037:0055:EN:PDF>
- Directive 2003/55/EC for internal market in natural gas <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:176:0057:0078:EN:PDF>

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EXECUTIVE SUMMARY

Customers in open electricity and gas markets need to be well represented and consumer rights must be well defined and defended. The Third Package¹ will in general strengthen the rights of the customers further and in particular those of vulnerable customers. The term vulnerable customer is not defined in the existing Electricity and Gas Directives² but in the Third Package it is stated that the “*Member States shall define a concept of vulnerable customers...*”³ As the Third Package legislation has yet to take effect, the paper distinguishes between the ‘existing’ Directives (2003/54/EC and 2003/55/EC) and the 3rd Package provisions.

The European Commission stressed the importance of consumer rights at the First Citizens’ Energy Forum in London in October 2008. The Forum endorsed the need for an overview of the situation regarding consumer rights issues with a focus on vulnerable customers, supplier of last resort and default supplier. This status review provides such an overview. It is based on two questionnaires submitted to national regulatory authorities. In total 27 countries (25 Member States, plus Croatia and Norway) responded to the electricity questionnaire. For gas, responses from 25 Member States were received.

With regard to vulnerable customers, this status review focuses on the existence of support systems and which categories of customers qualify for such support.

This report shows that few countries (8 out of 27 respondents) actually use the term *vulnerable customer*. In general, however there are support systems for customers who are financially weak or have certain needs (disabled, etc.). The design of these systems varies among the countries participating in this study. However, ERGEG finds that a majority of the countries do not have specific economic support systems for vulnerable customers *within* the energy sector. There are some countries where regulated supply prices exist for customers who are financially weak or have certain needs. In a position paper published in 2007⁴ ERGEG made clear that regulated prices distort the functioning of the market and should be abolished, or where appropriate, brought into line with market conditions. Transition periods towards well-functioning competition (for the co-existence of regulated and market prices) may however be necessary to protect customers from potential abuses of dominant positions.

¹ In particular, in Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, which are two of five legislative acts in the Package.

² Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

³ Art.3 (7), Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

⁴ End-user price regulation – An ERGEG Position Paper (E07-CPR-10-03), 18 July 2007.

Very few national regulatory authorities for energy were able to present figures on the share of households and inhabitants qualifying for, or receiving, economic support within the energy sector. This lack of information might either be due to the fact that financial support is not within the national regulators' competence or that the figures simply do not exist in the countries in question.

Almost all countries have support systems *not specific to* the energy sector, for financially weak customers. These support systems consist of financial support - mainly social allowances. A majority of countries also have non-economic support systems, such as protection against disconnection.

Readers should bear in mind that each country's answers have to be considered in the context of that country's general social support system and that the whole energy specific answers should be read together.

Apart from regulated prices, ERGEG cannot draw any conclusions on the functioning of the support systems or comment on whether one system is better than another. Since the majority of the support systems are not energy specific, it is not within ERGEG's competence to make any evaluation within this area.

The term *default supplier* does not exist in the existing Directives⁵ and ERGEG finds that a majority of the countries do not define this term. For electricity, 16 respondents out of 27 do not have a definition, and for gas 17 out of 25 respondents do not have a definition. For those countries which have a definition, it is most common that the default supplier is activated when the customer is inactive and does not choose a supplier or when the customer cannot find a supplier on the market. The default supplier is usually designated by the regulator.

The term *supplier of last resort* appears in Article 3 in the existing Directives⁶, but no definition is given. This status review shows that a supplier of last resort is not the same as a default supplier. A majority of the countries do have a definition of supplier of last resort for electricity and gas. For electricity, 20 respondents out of 27 have a definition, and for gas 16 out of 25 respondents have a definition. For those countries which have a definition, it is most common that the supplier of last resort is appointed when a supplier goes bankrupt or when a customer cannot find a supplier on the market. It is also worth noting that it is not unusual for the supplier of last resort to also act as the default supplier, or *vice versa*. Some countries do not separate or distinguish between the terms. The supplier of last resort is most commonly designated by the regulator.

This status review shows that it is almost always the case that the *default supplier* is in fact the same as the incumbent supplier, and in half of the responding countries the role of *supplier of last resort* falls on the incumbent supplier. To choose incumbent suppliers to act as default supplier and supplier of last resort is, from a competition perspective, not the best solution. Still, in many European countries, competition in the energy retail markets is not

⁵ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

⁶ See Footnote 5.

very lively. Competition in the retail markets is essential to ensure high quality services at the lowest prices and to maximise customer empowerment. A market-oriented solution for appointing a default supplier/supplier of last resort could be to have a tendering procedure to facilitate competition between suppliers. It is also likely that a market-oriented solution would help new suppliers to enter the market, especially in countries where competition is not yet very well developed. An increased number of suppliers would give the customers more options, which would lead to enhanced competition in the retail markets.

This status review also shows that in most countries there is no maximum time limit for the length of the service provided by default suppliers and suppliers of last resort. From a competition perspective, this is not an ideal situation in markets where customers do not choose their supplier. Time limits promote activity among the customers. If there is no time limit, the customers are more likely to remain with the default supplier/supplier of last resort than if the service is time limited. Such a limit would empower the customers to make a choice between available suppliers and strengthen competition. A time limit of course requires that the customers are given sufficient and adequate information about what will happen when the time limit is reached and what they need to do in order to make an active choice of supplier.

This report shows that not all countries have definitions of *default supplier* or *supplier of last resort*. Despite this ERGEG has found that countries lacking these definitions usually have other mandatory systems ensuring that customers are supplied with electricity and gas in certain situations. This status review shows that almost all responding countries have a system ensuring energy supply to the customer if the supplier goes bankrupt, if the customer does not choose a supplier or if the customer cannot find a supplier on the market. ERGEG judges that this protection is not firmly related to the existence of definitions of default supplier and/or supplier of last resort.

This status review shows clearly that the systems of default supplier/supplier of last resort (and other similar systems) do not ensure supply in case of customer non-payment. However, many countries have other ways of protecting customers against disconnection.

1 INTRODUCTION

It is vital that final customers on the open electricity and gas markets are well represented and consumer rights must be well defined and defended. According to the Electricity and Gas Directives⁷, *“Member States shall take appropriate measures to protect final customers, and shall in particular ensure that there are adequate safeguards to protect vulnerable customers, including measures to help them avoid disconnection.”* The term vulnerable customer is however not defined in the existing Directives⁸. The Third Package will strengthen the rights of the final customers further. The term vulnerable customer is not defined in the Third Package either, although it is stated that the *“Member States shall define a concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of such customers in critical times”*⁹. Member States should ensure necessary energy supply to vulnerable customers¹⁰.

Whether or not countries define or use the term vulnerable customer, it is important that those customers who have certain needs are supported. The support mechanisms throughout Europe may vary. Some countries have support systems within the energy sector for certain customer groups and some countries have general support schemes in place not specific to the energy sector, such as social allowances.

One way of protecting customers is to have a supplier of last resort and/or a default supplier or some other system which protects those customers who might be unable to obtain energy. ERGEG believes that this is a concept which is a very important component of customer rights. However, *supplier of last resort* and *default supplier* seem to be understood in many different ways, since no definition exists in relevant EU documents. Therefore clarifying the functions and responsibilities of supplier of last resort and default supplier is important to get a clear picture of the current situation.

The European Commission stressed the importance of final customer rights on the First Citizens' Energy Forum in London 2008. The Forum wanted to have an overview of the situation regarding customer rights issues with a focus on vulnerable customers, supplier of last resort and default supplier.

1.1 Methodology

Separate questionnaires addressing electricity and gas were compiled in the first quarter of 2009. The questionnaires consisted of both closed and open questions. Both questionnaires were designated online and published on the members' section of the European Energy Regulators' website for completion by the national regulatory authorities.

⁷ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

⁸ See Footnote 7

⁹ Art.3 (7), Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

¹⁰ Preamble 53, Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Preamble 50, Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in gas and repealing Directive 2003/55/EC

The readers of this status review should note that where a question offered respondents a choice between a selection of given answers, not all of these answers are shown in the tables and graphs. Those responses that no country selected have not been included in the report, but can be found in the questionnaires in the annex.

Country specific comments in the report deal both with electricity and gas. Where only one of the energy sources is concerned, this is mentioned in the text.

The countries consulted were all 27 Member States plus Croatia, Iceland, Norway and Turkey. Complete or partial responses were returned by all countries, except from Cyprus, Iceland, Malta and Turkey. Croatia and Norway only provided answers to the electricity questionnaire. In Norway there is no natural gas market for household customers. In the case of the response from Great Britain for vulnerable customers some aspects of economic support (certain Government benefits) apply on a UK-wide basis. In total, 27 countries provided responses to the questionnaire for electricity and 25 provided responses to the questionnaire for gas.

This report covers the situations in the responding countries up until 1 July 2009.

1.2 Objective of the report

The objective of this status report is to review the customer protection in the light of support systems, both economic and non-economic. The objective is also to see if the term vulnerable customer is commonly known in the countries. This status review also monitors the existence of definitions of default supplier and supplier of last resort and protection systems for those customers who might be unable to afford energy.

2 Vulnerable customers

This section of the report concentrates on the usage of the term “vulnerable customer” and support systems, both within and outside the energy sector. The term is commonly used in EU-documents and EU-legislation, the term is however not defined in the Directives¹¹. The main focus is on the existence of support systems and which categories of customers qualify for such support rather than focusing on the definition of vulnerable customers. For customers who are financially weak the most important things are to receive support and to be protected.

2.1 Vulnerable customer – commonly known?

The term “vulnerable customer” is used quite often within the EU-system but there is no general definition of the term. Therefore it is interesting to find out if the term is commonly known or used in the European countries.

This status review shows that the term “vulnerable customer” is not commonly known or used throughout Europe. Only 8 respondents (Belgium, Bulgaria, Great Britain, Greece, Hungary, Ireland, Italy and Slovenia) state that the term is commonly known or used in their country, whereas the term is not commonly known or used in the other 19 countries (Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Latvia, Lithuania, Luxembourg, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden and the Netherlands).

2.2 Economic support system within the energy sector

Countries have chosen different solutions to the issue of customers who are too financially weak to be able to pay the full energy bill by themselves. Some countries have chosen to aim the economic support towards different sectors, such as electricity or gas, while other countries have chosen to provide a more general support to low income groups. This section of the report concentrates on the countries that have a special mandatory economic support system within the energy sector and outlines what the specifics of those systems are.

¹¹ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

Table 1 – Do you have a special mandatory economic support system for certain customer groups (vulnerable customers) within the energy sector? (electricity and gas)

| | ELECTRICITY | | GAS | |
|-----------------|-------------|-----------|----------|-----------|
| | Yes | No | Yes | No |
| AUSTRIA | | X | X | |
| BELGIUM | X | | X | |
| BULGARIA | X | | X | |
| CROATIA | | X | - | - |
| CZECH REPUBLIC | | X | | X |
| DENMARK | | X | | X |
| ESTONIA | | X | | X |
| FINLAND | | X | | X |
| FRANCE | X | | X | |
| GERMANY | | X | | X |
| GREAT BRITAIN | X | | X | |
| GREECE | X | | | X |
| HUNGARY | | X | X | |
| IRELAND | X | | X | |
| ITALY | X | | X | |
| LATVIA | | X | | X |
| LITHUANIA | | X | | X |
| LUXEMBOURG | | X | | X |
| NORWAY | | X | - | - |
| POLAND | | X | | X |
| PORTUGAL | | X | | X |
| ROMANIA | X | | X | |
| SLOVAK REPUBLIC | | X | | X |
| SLOVENIA | X | | | X |
| SPAIN | X | | | X |
| SWEDEN | | X | | X |
| THE NETHERLANDS | | X | | X |
| TOTAL | 10 | 17 | 9 | 16 |

As can be seen in Table 1, there is no special mandatory economic support system for certain customer groups or vulnerable customers in a majority of the countries. This applies for both electricity and gas.

Figure 1 – At what level does the economic support system within the energy sector exist? (electricity and gas)

| | In primary law | In secondary legislation | Other |
|-------------|---|---|-------------------------------|
| ELECTRICITY | Belgium, Bulgaria, France, Great Britain, Italy, Romania, Slovenia, Spain | Bulgaria, Great Britain, Greece, Italy, Romania, Slovenia | Great Britain, Ireland |
| GAS | Belgium, Bulgaria, France, Great Britain, Italy, Romania | Austria, Bulgaria, Great Britain, Hungary, Italy | Great Britain, Ireland, Spain |

There are different ways of regulating the economic support system for vulnerable customers in the responding countries. The system can be regulated within primary law, secondary legislation or in other ways. However, in no country is the economic support system within the energy sector found solely in general terms and conditions.

In the **Belgian** institutional framework, it is the federal level which is competent for the social tariffs, which must be the same over the whole territory. The regional level is charged with taking additional measures to protect some groups of vulnerable customers (prepaid metering, protection against disconnection, a social framework in the case of disconnection). These additional measures must however cover issues other than the tariff issues which are decided solely at federal level. In **Great Britain** social security benefits relating to energy are provided under statute. There is also a voluntary agreement between energy suppliers and Government for suppliers to provide a range of support including social tariffs, rebates and trust funds (for some customers who need financial assistance to pay their energy bills). In **Italy** a consultation process is ongoing, at regulatory level, in order to define the social tariff system also for the gas sector.

Table 2 – If such a specific economic support system within the energy sector exists, which customer categories are included in the support system (electricity and gas)?

| |
|---|
| A. All households with a defined low income |
| B. Senior citizens with a defined low income |
| C. All senior citizens |
| D. Households with children with a defined low income |
| E. All households with children |
| F. All households |
| G. Disabled persons with a defined low income |
| H. All disabled persons |
| I. Other |

| |
|---|
| A. All households with a defined low income |
| B. Senior citizens with a defined low income |
| C. All senior citizens |
| D. Households with children with a defined low income |
| E. Disabled persons with a defined low income |
| F. All disabled persons |
| G. Other |

| ELECTRICITY | A | B | C | D | E | F | G | H | I |
|---------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| BELGIUM | X | | | | | | | X | X |
| BULGARIA | | | | | | | | | X |
| FRANCE | X | | | | | | | | |
| GREAT BRITAIN | X | | X | | | | X | | |
| GREECE | | | | | | | | | X |
| IRELAND | X | X | X | | | | X | | |
| ITALY | X | | | X | | | | | X |
| ROMANIA | X | | | | | | | | |
| SLOVENIA | X | | | | | | | | |
| SPAIN | | X | | X | X | X | X | | X |
| TOTAL | 7 | 2 | 2 | 2 | 1 | 1 | 3 | 1 | 5 |

| GAS | A | B | C | D | E | F | G |
|---------------|----------|----------|----------|----------|----------|----------|----------|
| AUSTRIA | X | | | | | | |
| BELGIUM | X | | | | | X | X |
| BULGARIA | | | | | | | X |
| FRANCE | X | | | | | | |
| GREAT BRITAIN | X | | X | | X | | |
| HUNGARY | X | | | | | | |
| IRELAND | X | X | X | | X | | |
| ITALY | X | | | X | | | |
| ROMANIA | X | | | | | | |
| TOTAL | 8 | 1 | 2 | 1 | 2 | 1 | 2 |

In most countries that have an economic support system within the energy system, the system applies to all households with an income below a defined level, as can be seen in Table 2. Only in a few countries other customer groups (such as senior citizens, households with children and disabled persons) receive economic support, and if they receive this it is often in addition to the general economic support that all households with an income below a defined level receive.

In one region in **Belgium** (Flanders), all individuals in a household annually receive 100 kWh of electricity free of charge each, in addition the household also receives 100 kWh for free per year. In **Greece**, two groups of customers are entitled to reduced electricity prices: 1) Low income households who consume under 800 kWh over a 4 month period. However the definition of the level of income is under preparation, by Government, so this measure is inactive for the moment. 2) Families with more than 3 children. In **Italy**, all disabled people (households) with health safety equipments are included in the support system for electricity. In **Spain**, from the 1st July 2009, a social bonus will be applicable. From that date, the following customer categories will enjoy the social bonus: A) every customer (not business) with electric power lower than 3 kW in their home; B) every customer (60 or older) receiving a minimum pension from the social security system and disabled people in the same conditions; C) every family with three or more children; and D) every family in which all the members are unemployed.

Figure 2 – What does your economic support system within the energy sector consist of? (electricity and gas)

| | Supply: specific regulated prices for certain consumer groups | Supply: specific prices for certain consumer groups | Network: a specific tariff for certain consumer groups | Other |
|-------------|---|---|--|--|
| ELECTRICITY | Belgium, France, Romania, Slovenia, Spain | Great Britain | Italy, Spain | Bulgaria, Great Britain, Greece, Ireland |
| GAS | Belgium, Estonia | France, Great Britain | | Austria, Bulgaria, Great Britain, Hungary, Ireland, Italy, Romania |

As can be seen in Figure 2, it is not unusual that the economic support system within the energy sector consist of specific regulated prices for certain customer groups regarding supply.

In **Italy** and **Spain**, there is a discount on the electricity network tariff for certain customer groups (vulnerable customers). In **Austria**, there is a Federal States' Heating Aid which allows special payments for heating costs (no matter which kind of heating) during the winter months to protect people from severe hardship. In **Great Britain**, suppliers provide a range of support including social tariffs, rebates and trust funds (for some customers who need financial assistance to pay their energy bills). There are also Government benefits (winter fuel and cold weather payments) as well as Government grants for home energy efficiency improvements available to certain customer groups (the elderly and those on low incomes). In **Greece**, electricity supply prices are regulated, for all customers. In addition, extra lower prices are offered to vulnerable customers. In **Ireland**, there is a subsidy available from the government to cover up to 2400 kWh units of electricity and electricity standing charges. There is also a subsidy available for gas customers covering up to 545 Euro of gas and gas standing charges. In **Romania**, there are financial benefits for heating (gas) for the customers who have a defined low income.

Table 3 –How many of your country’s inhabitants (share of population) or households qualify and receive such economic support? (electricity and gas)

| | ELECTRICITY | | | | GAS | | | |
|---------------|---------------------------|-----------|----------------------------|-----------|---------------------------|-----------|----------------------------|-----------|
| | Percent of all households | | Percent of all inhabitants | | Percent of all households | | Percent of all inhabitants | |
| | Qualifying | Receiving | Qualifying | Receiving | Qualifying | Receiving | Qualifying | Receiving |
| AUSTRIA | - | - | - | - | 9 | 4,7 | N.A | N.A |
| BELGIUM | 6,8 | 4,6 | 3,1 | 2,1 | 4,7 | 2,2 | 2,1 | 1 |
| BULGARIA | N.A | N.A | N.A | N.A | N.A | N.A | N.A | N.A |
| FRANCE | 6,7 | 2,5 | N.A | N.A | 4 | N.A | N.A | N.A |
| GREAT BRITAIN | N.A | N.A | N.A | N.A | N.A | N.A | N.A | N.A |
| GREECE | N.A | N.A | N.A | N.A | - | - | - | - |
| IRELAND | 19 | 19 | N.A | N.A | 5 | 5 | N.A | N.A |
| ITALY | 16 | N.A | N.A | N.A | N.A | N.A | N.A | N.A |
| ROMANIA | N.A | 16 | N.A | N.A | N.A | N.A | N.A | N.A |
| SLOVENIA | N.A | N.A | N.A | N.A | - | - | - | - |
| SPAIN | N.A | N.A | N.A | N.A | - | - | - | - |

When asked the question “How many of your country’s households qualify and receive such economic support?”, only 5 countries for electricity and 4 countries for gas were able to provide estimated answers, as can be seen in Table 3. Even though there are few responses to these questions (both for electricity and gas), it is worth noting that when comparing the number of households or share of population **qualifying** for economic support with the share of households or population actually **receiving** such support, in more than one case there is a significant difference between the two. There are notably more households and inhabitants who have a right to the support than those who actually receive the support.

2.3 Economic support system not specific to the energy sector

Economic support systems can exist either within or outside the energy sector. The responding countries have different solutions for protecting and supporting the customers. Different countries have different solutions depending on the maturity of the energy markets and national traditions and structures. It is therefore impossible to judge if certain solutions are better than others. The important factor is that the customers are able to receive some kind of support when needed.

When the respondents were asked the question *Do you have an economic support system for certain customer groups (vulnerable customers) not specific to the energy sector (social systems, benefits etc)?* all countries except Slovenia, answered that they have such a system.¹²

¹² In Poland, special allowances can be granted to pay for protected deliveries (as an element of public service obligation system) but it is not yet the case for energy.

2.4 Non-economic support system

Customers can be supported both through economic support and non-economic support. In Article 3 (2003/54/EC and 2003/55/EC) it is outlined that adequate safeguards to protect vulnerable customers including measures to help them avoid disconnection shall apply in member states. A non-economic support system, such as protection against disconnection, can work as a complement to an economic support system. Together, the systems can create a good safety net for customers. Some countries do not have a non-economic support system. In those countries, it is however common that it is mandatory to inform customers before disconnection due to non payment.

Table 4 – Is there any non-economic support system for certain customer groups (vulnerable customers) within your energy system? (electricity and gas)

| | ELECTRICITY | | | GAS | | |
|-----------------|---------------------------------------|-----------|----------|---------------------------------------|-----------|----------|
| | Yes, protection against disconnection | No | Other | Yes, protection against disconnection | No | Other |
| AUSTRIA | | X | | | X | |
| BELGIUM | X | | | X | | |
| BULGARIA | | X | | | X | |
| CROATIA | | X | | - | - | - |
| CZECH REPUBLIC | X | | | X | | |
| DENMARK | | X | | | X | |
| ESTONIA | X | | | X | | |
| FINLAND | X | | | X | | |
| FRANCE | X | | | X | | |
| GERMANY | | X | | | X | |
| GREAT BRITAIN | X | | X | X | | X |
| GREECE | | X | | X | | X |
| HUNGARY | X | | | X | | |
| IRELAND | X | | | X | | |
| ITALY | X | | | | X | |
| LATVIA | | X | | | X | |
| LITHUANIA | | X | | | X | |
| LUXEMBOURG | X | | | - | - | - |
| NORWAY | X | | | X | | |
| POLAND | | X | | | X | |
| PORTUGAL | | | X | | | X |
| ROMANIA | X | | | X | | |
| SLOVAK REPUBLIC | | X | | | X | |
| SLOVENIA | X | | | X | | |
| SPAIN | X | | | | X | |
| SWEDEN | X | | | X | | |
| THE NETHERLANDS | X | | X | X | | X |
| TOTAL | 16 | 10 | 3 | 14 | 10 | 4 |

As Table 4 shows, in a majority of the countries there is a system protecting certain customer groups (vulnerable customers) against disconnection for both electricity and gas

In **Great Britain**, other non-economic support is provided through a Priority Services Register which suppliers are required to set up to provide certain services (for example frequent meter readings) for some customers (those of pensionable age, disabled,

chronically sick, blind, partially sighted, deaf, hearing impaired). In **Greece**, there are special services for vulnerable gas customers (e.g. phone information about bills for blind people, personal visits for training on safe use of gas, etc). In **The Netherlands**, protection against disconnection applies during the winter months only.

Table 5 – If such a specific non-economic support system for certain customer groups within the energy sector exists, which customer categories are included in the support system? (electricity)

| | |
|---|---|
| A. All households with a defined low income | E. All disabled persons |
| B. All senior citizens | F. Small businesses with a defined low income |
| C. All households with children | G. All small businesses |
| D. All households | H. Other |

| ELECTRICITY | A | B | C | D | E | F | G | H |
|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | | | | |
| CZECH REPUBLIC | | | | X | X | | | |
| ESTONIA | | | | X | | | | |
| FINLAND | | | | | | | | X |
| FRANCE | | | | X | | | | |
| GREAT BRITAIN | | X | X | | X | | | |
| HUNGARY | | | | | | | | X |
| IRELAND | | X | | | | | | |
| ITALY | | | | | | | | X |
| LUXEMBOURG | | | | X | | | | |
| PORTUGAL | | | | | | | | X |
| ROMANIA | | | | | X | | | |
| SLOVENIA | X | | | | | | | |
| SPAIN | | | | | | | | X |
| SWEDEN | X | | | | | | | |
| THE NETHERLANDS | | | | X | | | X | |
| TOTAL | 2 | 2 | 1 | 6 | 2 | 1 | 1 | 5 |

| GAS | A | B | C | D | E | F | G | H |
|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | | | | |
| CZECH REPUBLIC | | | | X | | X | | |
| ESTONIA | | | | X | | | | |
| FINLAND | | | | | | | | X |
| FRANCE | X | | | | | | | |
| GREAT BRITAIN | | X | X | | X | | | |
| GREECE | | | | | X | | | X |
| HUNGARY | | | | | | | | X |
| IRELAND | | X | | | | | | |
| LUXEMBOURG | | | | X | | | | |
| PORTUGAL | | | | | | | | X |
| ROMANIA | | | | X | | | | |
| SLOVENIA | | | | | | | | X |
| SWEDEN | X | | | | | | | |
| THE NETHERLANDS | | | | X | | | X | |
| TOTAL | 2 | 2 | 1 | 6 | 2 | 1 | 1 | 5 |

As can be seen in Table 5, the most common answer from the responding countries is that there is a specific non-economic support system, protection against disconnection, for all households concerning both electricity and gas.

A number of countries have protection against disconnection for customer segments other than those listed in the tables. In **Finland**, all customers with financial difficulties caused by no fault of their own (such as serious illness or unemployment) are protected and in **Italy** this applies to disabled persons with health safety equipments. In **Greece**, senior citizens (over 65) living alone or living with another senior citizen are protected against disconnection for gas. As mentioned above, there are also other special services for vulnerable customers in Greece (e.g. phone information about bills for blind people, personal visit for training on safe use of gas etc). In **Hungary**, customers in social need (for instance customers qualifying for different kinds of allowances such as nursing allowance or child welfare allowance) qualify for protection (both electricity and gas). In **Portugal**, there is a requirement to individually inform customers with special needs and people whose survival depends on medical equipment running on electricity, before planned interruptions. In **Slovenia**, the system operator may not interrupt the supply of energy where doing so could endanger the life and health of the client and the persons who reside with him/her.

2.5 Main conclusions, vulnerable customer (electricity and gas)

This report shows that there are different ways of supporting financially weak customers among the countries participating in this study. ERGEG finds that a majority of the countries do not have specific economic support systems for vulnerable customers within the energy sector. In most countries that do have an economic supports system within the energy sector, customers with an income below a defined level are covered by the system.

It is worth noting that very few countries were able to present figures on the share of households and inhabitants qualifying for and receiving support. This lack of information might either be due to the fact that financial support is not within the national regulators' competence or that the figures simply do not exist in the countries.

Almost all countries have support systems, *not* specific to the energy sector, for financially weak customers. The support systems mainly consist of financial support such as social allowances. Some countries do have specific regulated prices for certain customer groups. ERGEG, in a position paper¹³ published in 2007, made clear that regulated prices distort the functioning of the market and should be abolished, or where appropriate, brought into line with market conditions. Transition periods towards well-functioning competition (for the co-existence of regulated and market prices) may be necessary to protect customers from potential abuses of dominant positions.

A majority of the countries also have non-economic support systems, such as protection against disconnection. ERGEG does not, however, have a full picture of the protection systems existing in the different countries. Only some examples of such systems have been described in this chapter.

ERGEG finds that despite the fact that few countries actually use the term vulnerable customer, there are support systems in a large majority of the countries that enable economic support and protection against the disconnection of weak customers. However, ERGEG cannot draw any conclusions on the functioning of other support systems or whether one system is better than another. Since the majority of the support systems are not energy specific, it is not within ERGEG's competence to make any evaluation within this area.

Competition is of major importance, also for low income customers and customers with special needs. Whatever support system a country may have chosen, it must not hinder competition but should allow those customer groups to actively take part in the liberalised market in order to take advantage of cheaper offers and to be able to shop around for the best deal.

¹³ End-user price regulation – An ERGEG Position Paper (E07-CPR-10-03)

3 Default supplier

Default supplier is a term used very often, however the term is not mentioned in the Directives¹⁴. This report helps clarify the term and the use of the term. Definitions and customer protection mechanisms vary by country. It is possible to have well-functioning mandatory systems ensuring that customers are supplied with electricity and gas in certain situations even though countries may lack definitions of a default supplier. This section of the report deals with the existence of definitions of default supplier, the default supplier systems and, in which cases the systems are applicable.

Table 6 – Does a definition of default supplier for energy customers exist? (electricity and gas)

| | ELECTRICITY | | GAS | |
|-----------------|-------------|-----------|----------|-----------|
| | Yes | No | Yes | No |
| AUSTRIA | | X | | X |
| BELGIUM | X | | X | |
| BULGARIA | X | | X | |
| CROATIA | X | | - | - |
| CZECH REPUBLIC | | X | | X |
| DENMARK | X | | X | |
| ESTONIA | | X | | X |
| FINLAND | | X | | X |
| FRANCE | | X | | X |
| GERMANY | X | | X | |
| GREAT BRITAIN | | X | | X |
| GREECE | X | | | X |
| HUNGARY | | X | | X |
| IRELAND | | X | | X |
| ITALY | | X | | X |
| LATVIA | | X | | X |
| LITHUANIA | X | | X | |
| LUXEMBOURG | X | | X | |
| NORWAY | | X | - | - |
| POLAND | X | | X | |
| PORTUGAL | | X | | X |
| ROMANIA | X | | | X |
| SLOVAK REPUBLIC | | X | | X |
| SLOVENIA | | X | | X |
| SPAIN | X | | X | |
| SWEDEN | | X | | X |
| THE NETHERLANDS | | X | | X |
| TOTAL | 11 | 16 | 8 | 17 |

¹⁴ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

As can be seen in Table 6, in a majority of the countries there is no definition of default supplier.

Please note that only those countries that have stated that they have a definition of default supplier (i.e. those countries that answered “yes” to the question in Table 6) are included in the rest of this chapter.

Figure 3 – If yes, at what level is it defined/determined? (electricity and gas)

| | In primary law | In secondary legislation | Other |
|--------------------|---|------------------------------|--------------------|
| ELECTRICITY | Belgium, Bulgaria, Croatia, Denmark, Germany, Greece, Lithuania, Luxembourg, Poland, Romania, Spain | Bulgaria, Germany, Greece | Ireland, Lithuania |
| GAS | Belgium, Bulgaria, Denmark, Germany, Luxembourg, Poland, Spain | Bulgaria, Germany, Lithuania | Ireland |

Throughout the responding countries, the term default supplier is determined at different legal levels, as can be seen in Figure 3. The default supplier definition can be regulated within primary law, secondary legislation or in other ways. In a majority of the responding countries, the term is defined within primary law.

Table 7 – If you have a default supplier for energy customers, in which cases is it applicable? (electricity and gas)

| | |
|--|---|
| A. Customer cannot find a supplier on the market | D. Customer does not choose a supplier (for instance when the market opens) |
| B. Supplier going bankrupt | E. Expired contract |
| C. Moving in without choosing a supplier | F. Other |

| ELECTRICITY | A | B | C | D | E | F |
|--------------------|----------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | | |
| BULGARIA | | | | X | | |
| DENMARK | X | X | X | X | X | |
| GERMANY | X | | X | X | | |
| GREECE | | | | | | X |
| IRELAND | X | | X | | | |
| LITHUANIA | X | X | X | X | | |
| LUXEMBOURG | X | | X | X | X | |
| POLAND | X | X | X | X | | |
| ROMANIA | | | | X | | |
| SPAIN | X | X | X | X | X | |
| TOTAL | 7 | 4 | 7 | 9 | 3 | 1 |

| GAS | A | B | C | D | E |
|--------------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | |
| BULGARIA | | | | X | |
| DENMARK | X | X | X | X | X |
| GERMANY | X | | X | X | |
| IRELAND | X | | X | | |
| LITHUANIA | X | X | | X | |
| LUXEMBOURG | X | | X | X | X |
| POLAND | X | X | X | X | |
| SPAIN | X | X | X | X | X |
| TOTAL | 7 | 5 | 6 | 8 | 3 |

It seems that in a majority of the countries the term default supplier is most often used in situations where the customer is inactive and does not choose a supplier (e.g. moving in or market opening) or when the customer cannot find a supplier on the market.

It is worth noting that in **Greece** the default supplier definition for electricity applies in all situations when the customer requests it.

Table 8 – Which organisation/body designates the default supplier? (electricity and gas)

| | |
|------------------|-----------------------------|
| A. The DSO | D. Other public authorities |
| B. The regulator | E. Other |
| C. Government | |

| ELECTRICITY | A | B | C | D | E |
|--------------------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | |
| BULGARIA | | X | | | |
| DENMARK | | | X | | |
| GERMANY | X | | | X | |
| GREECE | | | X | | |
| IRELAND | | X | | | |
| LITHUANIA | | X | | | X |
| LUXEMBOURG | | X | | | |
| POLAND | | X | | | |
| ROMANIA | | X | | | |
| SPAIN | | | X | | |
| TOTAL | 1 | 6 | 3 | 2 | 1 |

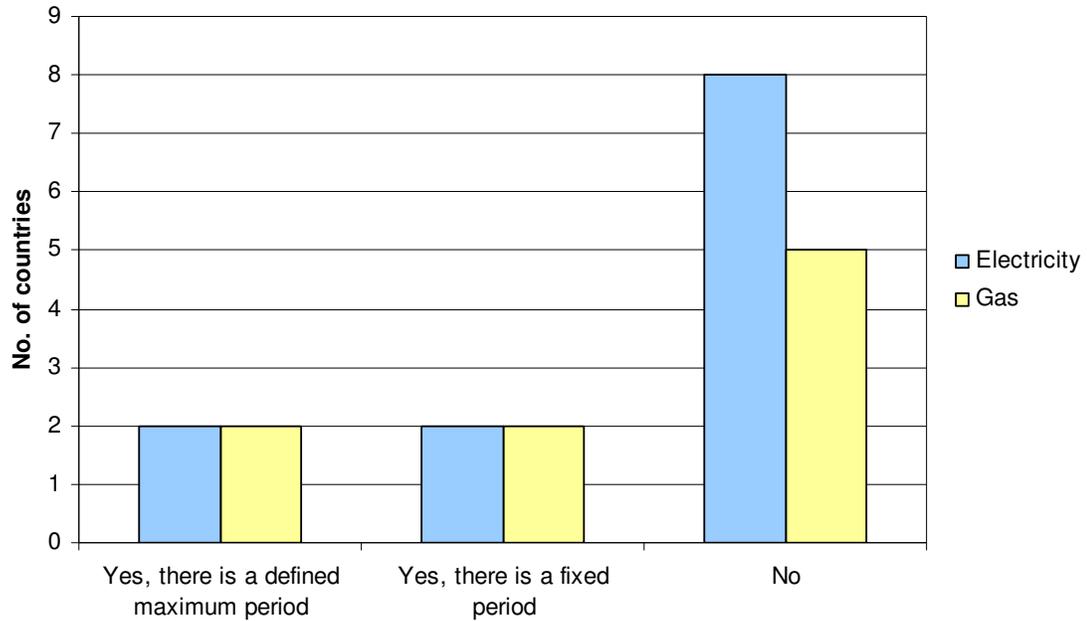
| GAS | A | B | C | D |
|--------------|----------|----------|----------|----------|
| BELGIUM | | | | X |
| BULGARIA | | X | | |
| DENMARK | | | X | |
| GERMANY | X | | | X |
| IRELAND | | X | | |
| LITHUANIA | | X | | |
| LUXEMBOURG | | X | | |
| POLAND | | X | | |
| SPAIN | | | X | |
| TOTAL | 1 | 5 | 2 | 2 |

As can be seen in Table 8, the default supplier for electricity and gas is most often designated by the regulator. In a few countries, it is the government that is responsible for this decision.

In **Germany**, the DSO finds out which supplier has the most of the customers within the network area, this determines which supplier will be the default supplier. The determined supplier will then be submitted to a public authority that has the right to veto. According to **Polish** law, the default suppliers are designated by the regulator by means of a tender. If the tender is unsuccessful, the regulator appoints such default suppliers for a period of 12 months. The incumbent suppliers act as the default suppliers within a transition period which means after the market opening on 1 July 2007 until the regulator designates the default suppliers through a tender.

When the respondents were asked the question *Who is the default supplier/ who are the default suppliers?*, all countries, except Germany, answered that it is the incumbent supplier that acts as the default supplier. In **Germany**, the supplier with the most customers in a defined network area is designated for a period of three years. The default supplier may therefore change from time to time.

Figure 4 – Does the default supplier provide this service for a defined period? (electricity and gas)



As can be seen in Figure 4, there is a defined maximum period for the service provided by the default supplier for **electricity** in only 2 countries (Bulgaria and Luxembourg). Also, only 2 countries (Denmark and Germany) have a fixed period for the service provided by the default supplier. In the remaining 8 countries, there is no defined maximum or fixed period for the default supplier.

For **gas**, the situation is similar to electricity. In 2 countries only (Bulgaria and Luxembourg) there is a defined maximum period for the service provided by the default supplier for gas. 2 countries (Denmark and Germany) have a fixed period for the service provided by the default supplier. In the remaining 5 countries, there is no defined maximum or fixed period for the default supplier.

3.1 Main conclusions, default supplier (electricity and gas)

A majority of the countries have no definition of default supplier for electricity or gas. For those countries which have a definition it is most common that the default supplier is activated when the customer is passive and does not choose a supplier (for instance when the market opens or when a customer moves in) or when the customer cannot find a supplier on the market. Customer non-payment is however one of the situations when the system is not activated. But, as noted in Chapter 3 of this status review, a majority of the countries have other systems for protecting customers against disconnection.

There is normally no time limit for the default supplier to provide the service. This system does not promote activity among the customers. If there is no time limit, the customers are more likely to remain with the default supplier than if the service of the default supplier were time limited. Such a limit would empower the customers to make a choice between available suppliers and strengthen competition. A time limit of course requires that the customers are given sufficient and adequate information about what will happen when the time limit is reached and what they need to do in order to make an active choice of supplier.

The default supplier is most commonly designated by the regulator. It is usually the incumbent supplier who acts as the default supplier. This is of course not an ideal situation if competition amongst suppliers is to be promoted and enhanced. Still, in many European countries competition in the energy retail markets is not very lively. Competition in the retail markets is essential to ensure high quality services at the lowest prices and to maximise customer empowerment. A market-oriented solution for appointing default suppliers could be to have a tendering procedure to facilitate competition between suppliers. It is also likely that a market-oriented solution would help new suppliers to enter the market, especially in countries where competition is not yet very well developed. An increased number of suppliers would lead to enhanced competition in the retail markets.

4 Supplier of last resort

Definitions and customer protection mechanisms throughout Member States vary. The term supplier of last resort appears in Article 3 of the Directives¹⁵, without being defined. It is possible to have well-functioning mandatory systems ensuring that customers are supplied with electricity and gas in certain situations even though countries may lack definitions of supplier of last resort. In some countries, the supplier of last resort also acts as a default supplier. This means that not all countries separate the two functions.

Table 9 – Does a definition of “supplier of last resort” exist for your energy customers? (electricity and gas)

| | ELECTRICITY | | GAS | |
|-----------------|-------------|----------|-----------|----------|
| | Yes | No | Yes | No |
| AUSTRIA | X | | | X |
| BELGIUM | X | | X | |
| BULGARIA | X | | X | |
| CROATIA | X | | - | - |
| CZECH REPUBLIC | X | | X | |
| DENMARK | | X | | X |
| ESTONIA | X | | X | |
| FINLAND | | X | | X |
| FRANCE | X | | X | |
| GERMANY | X | | X | |
| GREAT BRITAIN | X | | X | |
| GREECE | X | | | X |
| HUNGARY | X | | | X |
| IRELAND | X | | X | |
| ITALY | | X | X | |
| LATVIA | | X | | X |
| LITHUANIA | X | | X | |
| LUXEMBOURG | X | | X | |
| NORWAY | | X | - | - |
| POLAND | | X | | X |
| PORTUGAL | X | | X | |
| ROMANIA | X | | X | |
| SLOVAK REPUBLIC | X | | X | |
| SLOVENIA | X | | | X |
| SPAIN | X | | X | |
| SWEDEN | | X | | X |
| THE NETHERLANDS | X | | X | |
| TOTAL | 20 | 7 | 16 | 9 |

¹⁵ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

As can be seen in Table 9, a definition of supplier of last resort for electricity and gas exists in a majority of the responding countries. This could be compared with the definition of default supplier, where the situation is markedly different. Twice as many of the responding countries define the term supplier of last resort compared to the term default supplier.

Please note that only those countries that have stated that they have a definition of supplier of last resort (i.e, those countries that answered “yes” to the question in Table 9) are included in the rest of this chapter.

Figure 5 – If yes, at what level is it defined/determined? (electricity and gas)

| | In primary law | In secondary legislation | In general terms and conditions | Other |
|--------------------|--|--|---------------------------------|-----------|
| ELECTRICITY | Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Greece, Hungary, Lithuania, Luxembourg, Portugal, Romania, Slovak Republic, Slovenia, Spain | Bulgaria, Germany, Ireland, Portugal, Romania, Slovenia, The Netherlands | Great Britain and Portugal | Lithuania |
| GAS | Belgium, Bulgaria, Czech Republic, Estonia, France, Germany, Italy, Lithuania, Luxembourg, Portugal, Slovak Republic, Spain | Bulgaria, Germany, Ireland, Italy, Lithuania, Portugal, Romania, The Netherlands | Great Britain and Portugal | - |

Throughout the responding countries, the term supplier of last resort is determined at different legal levels, as can be seen in Figure 5. The system can be regulated within primary law, secondary legislation or in other ways. In a majority of the responding countries, the term is defined within primary law. However, it is not unusual to find the definition in secondary legislation.

In **Great Britain**, the definition is found in the Supply Licence which contains enforceable conditions.

Table 10 – If you have a supplier of last resort for energy customers, in which cases is it applicable? (electricity and gas)

| | |
|--|---|
| A. Customer non-payment | E. Customer does not choose a supplier (for instance when the market opens) |
| B. Customer cannot find a supplier on the market | F. Expired contract |
| C. Supplier going bankrupt | G. Other |
| D. Moving in without choosing a supplier | |

| ELECTRICITY | A | B | C | D | E | F | G | GAS | A | B | C | D | E | F | G |
|-----------------|----------|----------|-----------|----------|----------|----------|----------|-----------------|----------|----------|-----------|----------|----------|----------|----------|
| AUSTRIA | | X | | | | | | BELGIUM | X | X | | | | | |
| BELGIUM | X | X | | | | | | BULGARIA | | | | | X | | |
| BULGARIA | | | | | X | | | CZECH REPUBLIC | | X | X | X | X | X | |
| CROATIA | | X | X | | | | | ESTONIA | | X | X | | | | |
| CZECH REPUBLIC | | X | X | X | X | X | | FRANCE | | | X | | | | |
| ESTONIA | | | X | | | | | GERMANY | | | X | | | X | |
| FRANCE | | | X | | | | | GREAT BRITAIN | | | X | | | | |
| GERMANY | | | X | | | X | | IRELAND | | | X | | | | |
| GREAT BRITAIN | | | X | | | | | ITALY | | X | X | | | | |
| GREECE | | | | | | | X | LITHUANIA | | X | X | | X | | |
| HUNGARY | | | X | | | | | LUXEMBOURG | | | X | | | | X |
| IRELAND | | | X | | | | | PORTUGAL | | X | | | X | X | |
| LITHUANIA | | X | X | X | X | | | ROMANIA | | | | | | | X |
| LUXEMBOURG | | | X | | | | X | SLOVAK REPUBLIC | | | X | | | | |
| PORTUGAL | | X | | | X | X | | SPAIN | | X | X | X | X | X | |
| ROMANIA | | | X | | | | | THE NETHERLANDS | | | X | | | | X |
| SLOVAK REPUBLIC | | | X | | | | | TOTAL | 1 | 7 | 12 | 2 | 5 | 3 | 4 |
| SLOVENIA | | X | X | | | | | | | | | | | | |
| SPAIN | | X | X | X | X | X | | | | | | | | | |
| THE NETHERLANDS | | | X | | | | X | | | | | | | | |
| TOTAL | 1 | 8 | 15 | 3 | 5 | 3 | 4 | | | | | | | | |

As can be seen in Table 10, in a clear majority of the countries, the term supplier of last resort covers the situation when a supplier goes bankrupt. It is also common that the term covers the situation when a customer cannot find a supplier on the market.

In the **Czech Republic**, **Portugal** and **Greece** (for Greece, only electricity) the supplier of last resort definition applies in all situations when the customer requests it. In **Italy**, the supplier of last resort definition is applicable only when the disconnection procedure hasn't already started (gas). In **Luxembourg**, the supplier of last resort definition is applicable if the regular supplier is unable to supply for any reason or if the maximum period of default supplier has expired. In **Romania**, the supplier of last resort system is activated by the regulator when a supplier is about to lose his license. In **the Netherlands**, the supplier of last resort is activated when the regulator revokes the supply license of a supplier.

Table 11 – Which organisation/body designates the supplier of last resort? (electricity and gas)

| | |
|------------------|-----------------------------|
| A. The DSO | D. Other public authorities |
| B. The regulator | E. Other |
| C. Government | |

| ELECTRICITY | A | B | C | D | E |
|-----------------|----------|-----------|----------|----------|----------|
| AUSTRIA | | | | | X |
| BELGIUM | | | | X | |
| BULGARIA | | X | | | |
| CROATIA | | | | X | |
| CZECH REPUBLIC | | X | | | X |
| ESTONIA | | X | | | |
| FRANCE | | | X | | |
| GERMANY | X | | | X | |
| GREAT BRITAIN | | X | | | |
| GREECE | | | X | | |
| HUNGARY | | X | | | |
| IRELAND | | X | | | |
| LITHUANIA | | X | | | X |
| LUXEMBOURG | | X | | | |
| PORTUGAL | | | X | | X |
| ROMANIA | | X | | | |
| SLOVAK REPUBLIC | | X | | | |
| SLOVENIA | X | | | | |
| SPAIN | | | X | | |
| THE NETHERLANDS | | | | | X |
| TOTAL | 2 | 10 | 4 | 3 | 5 |

| GAS | A | B | C | D | E |
|-----------------|----------|----------|----------|----------|----------|
| BELGIUM | | | | X | |
| BULGARIA | | X | | | |
| CZECH REPUBLIC | | X | | | |
| ESTONIA | | | | | X |
| FRANCE | | | X | | |
| GERMANY | X | | | X | |
| GREAT BRITAIN | | X | | | |
| IRELAND | | X | | | |
| ITALY | | X | | | |
| LITHUANIA | | X | | | |
| LUXEMBOURG | | X | | | |
| PORTUGAL | | | X | | X |
| ROMANIA | | X | | | |
| SLOVAK REPUBLIC | | X | | | |
| SPAIN | | | X | | |
| THE NETHERLANDS | | | | | X |
| TOTAL | 1 | 9 | 3 | 2 | 3 |

As can be seen in Table 11, the supplier of last resort is most often designated by the regulator. It is also not unusual that the government is responsible for appointing the supplier of last resort.

In **Austria**, every supplier is concerned and the customer may ask for electricity supply under the conditions of *last resort supply*. In **Croatia**, the sales division within the DSO is the default supplier (electricity). In **Estonia**, the undertaking with a dominant position is obliged to supply gas for all households within the technical limits of the network. In **Italy**, the supplier of last resort for gas is designated by the regulator through a public auction. The criteria of the auction are defined by the government. In **Luxembourg**, the regulator's decision must also be approved by the government. In **Portugal**, the parliament is involved, in addition to the government, in the decision. In **the Netherlands**, it is the TSO who designates the supplier of last resort.

Table 12 – Who is the supplier of last resort/are the suppliers of last resort? (electricity and gas)

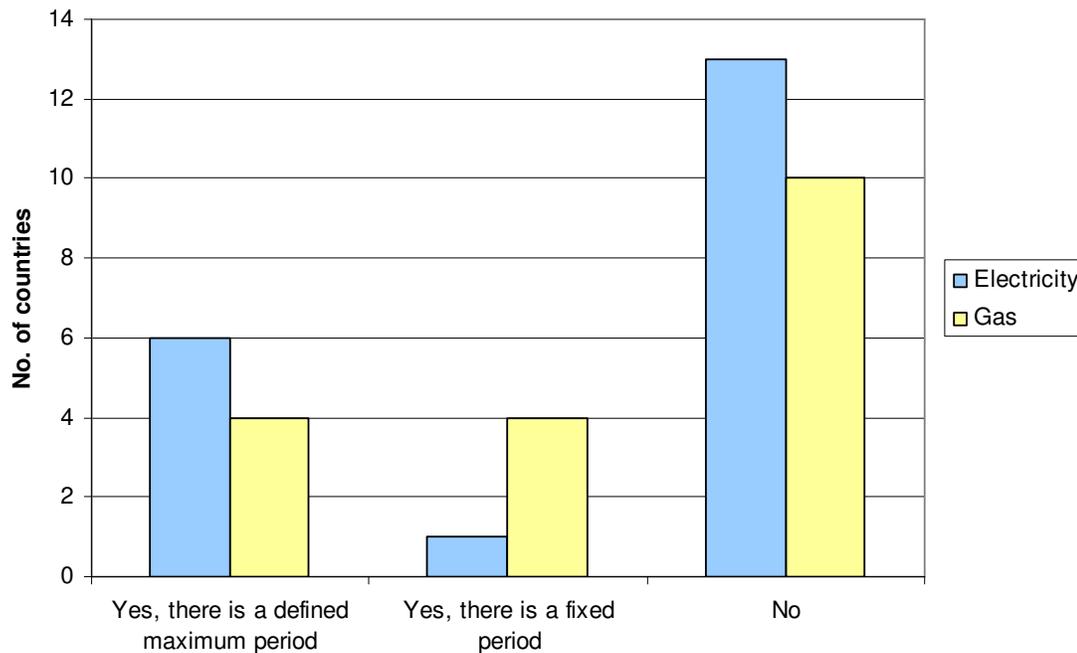
| ELECTRICITY | Incumbent supplier | Other | GAS | Incumbent supplier | Other |
|--------------------|--------------------|-----------|-----------------|--------------------|----------|
| AUSTRIA | X | | BELGIUM | | X |
| BELGIUM | | X | BULGARIA | X | |
| BULGARIA | X | | CZECH REPUBLIC | | X |
| CROATIA | | X | ESTONIA | X | |
| CZECH REPUBLIC | | X | FRANCE | | X |
| ESTONIA | X | | GERMANY | | X |
| FRANCE | | - | GREAT BRITAIN | | X |
| GERMANY | | X | IRELAND | X | |
| GREAT BRITAIN | | X | ITALY | | X |
| GREECE | X | | LITHUANIA | X | |
| HUNGARY | | X | LUXEMBOURG | | X |
| IRELAND | X | | PORTUGAL | X | |
| LITHUANIA | X | | ROMANIA | X | |
| LUXEMBOURG | | X | SLOVAK REPUBLIC | X | |
| PORTUGAL | X | | SPAIN | X | |
| ROMANIA | X | X | THE NETHERLANDS | | X |
| SLOVAK REPUBLIC | X | | TOTAL | 8 | 8 |
| SLOVENIA | | X | | | |
| SPAIN | X | | | | |
| THE NETHERLANDS | | X | | | |
| TOTAL | 10 | 10 | | | |

Table 12 shows that the responding countries have chosen different solutions to the question of which company is given the responsibility of acting as the supplier of last resort. In half of the cases it is, however, the incumbent supplier that acts as the supplier of last resort.

In **Austria**, every electricity supplier is a supplier of last resort. In **Belgium**, the DSOs are supplier of last resort. In the **Czech Republic**, a tendering procedure decides which supplier should act as a supplier of last resort. Until such a decision is made, the supplier of last resort is the certain supplier which has been a part of a vertically-integrated undertaking locally. In **Germany** and **Luxemburg**, the supplier with the most customers in a defined network area is designated for a period of three years. The default supplier may therefore change from time to time. In **Great Britain**, any licensed supplier may be appointed to be a supplier of last resort. In **France**, the decree on supplier of last resort for electricity has not yet been issued by government. For gas only some public facilities (health facilities, schools, police, army, penitentiaries, fire stations) benefit from the last resort supplier system. If their supplier is failing, they will be supplied during five days by the TSO. After these five days, they can be supplied either by another “regular” supplier, or by a supplier of last resort. The list of suppliers of last resort has been issued by government, after a tendering procedure. In **Hungary**, the supplier of last resort for electricity is the provider of universal services and traders volunteering to undertake the commitment to carry out this activity. In **Italy**, the supplier of last resort for gas is appointed by public auction. Currently, the supplier of last resort is the national incumbent for a group of regions, another supplier is supplier of last resort for other groups of regions. In **Romania**, certain criteria need to be fulfilled in order to qualify as a supplier of last resort for electricity. To be a supplier of last resort for household and for small and large customers you need to be the default supplier. To be a supplier of last resort for very large customers you need to have a minimum market share (equal or greater than the smaller default supplier). The very large customers are allocated to the

qualified suppliers of last resort in order of their market shares. In **Slovenia**, the DSO is the supplier of last resort, not the incumbent supplier, at least in legal terms. In practice, this is subcontracted from the DSO to a local supplier. In **the Netherlands**, when a supplier defaults (in case of bankruptcy or if the regulating body revokes the supply license of a supplier), its customers are allocated to the other suppliers based on their respective market shares. In this way, all other suppliers function as suppliers of last resort for a portion of the defaulting supplier's customers. The TSO is the responsible party for calculating market shares and allocating customers to default suppliers.

Figure 6 – Does the supplier of last resort provide this service for a defined period? (electricity and gas)



As can be seen in Figure 6, there are 6 countries (Bulgaria, Czech Republic, Luxembourg, Romania, Slovak Republic and Slovenia) that have a defined maximum period for the service provided by the supplier of last resort for **electricity**. Germany has a fixed period for the service provided by the supplier of last resort. In the 13 remaining countries (Austria, Belgium, Croatia, Czech Republic, Estonia, Great Britain, Greece, Hungary, Ireland, Lithuania, Portugal, Spain and the Netherlands) there is no defined maximum or fixed period for the supplier of last resort.

For electricity, **France** did not answer this question since the decree on supplier of last resort has not yet been issued by government.

For **gas**, 4 countries (Bulgaria, Czech Republic, Luxembourg and Slovak Republic) have a defined maximum period for the service provided by the supplier of last resort. Also, 4 countries (Germany, Italy, Romania and Spain) have a fixed period for the service provided by the supplier of last resort. In the remaining 10 countries (Belgium, Czech Republic, Estonia, France, Great Britain, Ireland, Lithuania, Portugal, Spain and the Netherlands) there is no defined maximum or fixed period for the default supplier.

In the **Czech Republic**, the service of the supplier of last resort is not limited in time and the supplier has to supply electricity or gas to households and small customers for as long as they want to. However, for other customer groups there is a three months time limit in certain situations. Therefore the Czech Republic has answered both *Yes, there is a defined maximum period* and *No* in Figure 6.

4.1 Main conclusions, supplier of last resort (electricity and gas)

A majority of the countries have a definition of supplier of last resort for electricity and gas. This can be compared to the definition of default supplier, where the situation is markedly different. Twice as many of the responding countries define the term supplier of last resort compared to the term default supplier. It is also worth noting that it is not unusual for the supplier of last resort also to act as the default supplier, or *vice versa*.

For those countries that have a definition of supplier of last resort it is most common that the supplier of last resort is activated when a supplier goes bankrupt. This can be compared with the term default supplier, which in most responding countries mainly covers situations when the customers are inactive and do not choose a supplier, for instance when the market opens or when they move home. Customer non-payment is however one of the situations when the system is not activated, except in one of the responding countries. But as noted in Chapter 3 of this status review, a majority of the countries have other systems for protection against disconnection.

The supplier of last resort is, like the default supplier, most commonly designated by the regulator and in half of the cases it is the incumbent supplier that acts as the supplier of last resort. The service of the supplier of last resort is, like the service of the default supplier, normally not time limited. This is of course not an ideal situation if competition amongst suppliers should be promoted and enhanced. This system does not promote activity among the customers and a more market-oriented solution could be to have a tendering procedure facilitating competition between suppliers, as suggested for the default supplier in Chapter 4. Competition could also be strengthened if the appointment of suppliers of last resort were time limited. If there is no time limit, the customers are more likely to remain with the supplier of last resort than if the service of the supplier of last resort is time limited. Such a limitation would empower the customers to make a choice between available suppliers and strengthen competition. A time limit of course requires that the customers are given sufficient and adequate information about what will happen when the time limit is reached and what they need to do in order to make an active choice of supplier. Competition in the retail markets is essential to ensure high quality services at the lowest prices and to maximise customer empowerment.

5 Customer protection system without default supplier/supplier of last resort definitions

Not all countries have definitions of default supplier or supplier of last resort, but there may still be systems ensuring energy supply to the customers. Please note that only those countries that do not have a definition of default supplier and/or supplier of last resort are included in this chapter.

Table 13 – If you lack definitions for default supplier and/or supplier of last resort, do you still have a mandatory system that ensures the customer is supplied with energy in the following situations? (electricity and gas)

| | |
|--|---|
| A. Customer cannot find a supplier on the market | D. Customer does not choose a supplier (for instance when the market opens) |
| B. Supplier going bankrupt | E. Expired contract |
| C. Moving in without choosing a supplier | |

| ELECTRICITY | A | B | C | D | E |
|-----------------|---|---|---|---|---|
| FINLAND | X | X | | | |
| FRANCE | | X | | | |
| GREAT BRITAIN | | | X | | |
| HUNGARY | | | X | X | |
| ITALY | X | X | X | X | X |
| NORWAY | X | X | X | X | X |
| SWEDEN | X | X | X | X | |
| THE NETHERLANDS | X | | X | X | X |
| TOTAL | 5 | 5 | 6 | 5 | 3 |

| GAS | A | B | C | D | E |
|-----------------|---|---|---|---|---|
| AUSTRIA | | X | | | |
| FINLAND | X | | | | |
| FRANCE | | X | | | |
| GREAT BRITAIN | | | X | | |
| HUNGARY | | | X | X | |
| ITALY | | | | X | |
| ROMANIA | | | | X | |
| THE NETHERLANDS | X | | X | X | X |
| TOTAL | 2 | 2 | 3 | 4 | 1 |

As can be seen in Table 13, countries that lack definitions of default supplier and/or supplier of last resort have support systems that ensure that the customers are supplied with energy in specific situations. The most common situations that are covered are when a customer is inactive and does not choose a supplier, when a supplier goes bankrupt or when a customer cannot find a supplier on the market.

In **Finland**, an *obligation to supply* scheme exists. This means that for each distribution network area the electricity supplier which has significant market power or the largest market share in the area concerned has the obligation to supply electricity at reasonable prices to customers and other small users. The *obligation to supply* scheme means only that the supplier has to supply electricity if a defined customer requires so. A supplier of last resort scheme in Finland applies to those customers whose electricity supply is in danger of being interrupted due to the retail supplier (e.g. bankruptcy). In such an instance, the DSO may not interrupt electricity supply until the minimum period set in legislation has past or the electricity market authority has designated a new retailer by virtue of Electricity Market Act. For natural gas, retailers in a dominant market position in a natural gas network shall supply natural gas at a reasonable price upon request by a customer connected to the network, if the customer has no other economically competitive options to purchase natural gas through a natural gas network. There is no specific supplier of last resort scheme. In **Great Britain**, suppliers have a duty to offer and supply to domestic customers under the terms of their licence (with certain exemptions).

To the question “Is there a defined period for the system?” all of the responding countries (Croatia, Finland, Great Britain, Hungary, Italy, Latvia, Norway, Spain, Sweden and the Netherlands) answered that there is no defined maximum or fixed period for the system concerning **electricity**.

The situation for **gas** is similar. In all of the responding countries (Austria, Finland, Great Britain, Hungary, Italy, Latvia, Romania and the Netherlands) there is no defined maximum or fixed period for the system.

5.1 Main conclusions, customer protection system without default supplier/supplier of last resort definitions (electricity and gas)

All countries without definitions of default supplier and/or supplier of last resort have support systems that ensure that the customer is supplied with energy in some specific situations. It is common that the system is activated when a customer does not choose a supplier, when a supplier goes bankrupt, when a contract expires or when a customer cannot find a supplier on the market. Customer non-payment is however one of the situations when the system is not activated. But as noted in Chapter 3 of this status review, a majority of the countries have other systems for protection against disconnection.

There is normally no time limit for the systems ensuring supply to customers in certain situations. This system does not promote activity among the customers. If there is no time limit, the customers are more likely to remain with the designated supplier than if the service would be time limited. Such a limitation would empower the customers to make a choice between available suppliers and strengthen the competition. A time limit of course requires that the customers are given sufficient and adequate information about what will happen when the time limit is reached and what they need to do in order to make an active choice of supplier.

Annex 1 Questionnaire

Vulnerable Customers

Support mechanisms for “vulnerable customers” throughout Member States may vary:

- Firstly, there may be economic support systems or economic safeguards within the energy system for certain consumer groups.
- It is also possible that there are non-economic mechanisms within the energy system e.g. that disconnection is not allowed for a certain customer group.
- Other countries may have general support schemes in place - not specific to the energy system, e.g. social allowances.
- And finally it may occur that Member States having a specific support mechanism within the energy system also have a general support system.

The questionnaire covers all of the above aspects for electricity and gas.

1.1 Do you have a special mandatory economic support system for certain consumer groups (vulnerable customers) within the energy sector?

- A) Yes
- B) No, proceed to question 1.7

1.2 If such a specific economic support system within the energy sector exists, which consumer categories are included in the support system?

- A) All households with a defined low income
- B) Senior citizens with a defined low income
- C) All senior citizens
- D) Households with children with a defined low income
- E) All households with children
- F) Students with a defined low income
- G) All students
- H) All households in rural areas
- I) Households in rural areas with a defined low income
- J) All households
- K) Disabled persons with a defined low income
- L) All disabled persons
- M) Small businesses with a defined low income
- N) All small businesses
- O) Other, please specify in comments

1.3 What does your economic support system within the energy sector consist of?

- A) Supply: specific regulated prices for certain consumer groups
- B) Supply: specific prices (not regulated) for certain consumer groups
- C) Network: a specific tariff for certain consumer groups
- D) Other, please specify in comments

1.4 At what level does the economic support system within the energy sector exist?

- A) In primary law
- B) In secondary law
- C) In general terms and conditions
- D) Other, please specify in comments

1.5 How many of your country's inhabitants (share of population) or households qualify for such economic support?

- A) Percent of all households
- B) Percent of all inhabitants
- C) Not available

1.6 How many of your country's inhabitants (share of population) or households actually receive such economic support?

- A) Percent of all households
- B) Percent of all inhabitants
- C) Not available

For all countries

1.7 Do you have an economic support system for certain consumer groups (vulnerable customers) not specific to the energy sector? (social systems, benefits etc.)

- A) Yes
- B) No, proceed to question 1.9

1.8 If yes, what does it consist of?

- A) Economic support provided outside the energy market, for example social allowances
- B) Other, please specify in comments

1.9 Is there any non-economic support system for certain consumer groups (vulnerable customers) within your energy system?

- A) Yes, protection against disconnection
- B) No, proceed to question 1.11
- C) Other, please specify in comments

1.10 If such a specific non-economic support system for certain consumer groups within the energy sector exists, which consumer categories are included in the support system?

- A) All households with a defined low income
- B) Senior citizens with a defined low income
- C) All senior citizens
- D) Households with children with a defined low income
- E) All households with children
- F) Students with a defined low income
- G) All students
- H) All households in rural areas
- I) Households in rural areas with a defined low income
- J) All households
- K) Disabled persons with a defined low income
- L) All disabled persons
- M) Small businesses with a defined low income
- N) All small businesses
- O) Other, please specify in comments

1.11 Is the term “vulnerable customer” commonly known/used in your country?

- A) Yes
- B) No

PART 2 Default supplier

In the following, the questionnaire deals with definitions of “default supplier” and “supplier of last resort”. Since definitions and customer protection mechanisms throughout Member States may vary, the questionnaire gives the possibility to describe the mechanisms in place – even without a definition – at the end of the questionnaire.

2.1 Does a definition of default supplier for energy customers exist?

- A) Yes
- B) No, proceed to question 3.1

2.2 If yes, at what level is it defined/determined?

- A) In primary law
- B) In secondary law
- C) In general terms and conditions
- D) Other, please specify in comments

2.3 If you have a default supplier for energy consumers, in which cases is it applicable?

- A) Customer non-payment
- B) Customer cannot find a supplier on the market
- C) Supplier going bankrupt
- D) Moving in without choosing a supplier
- E) Customer does not choose a supplier (for instance when the market opens)
- F) Expired contract
- G) Other, please specify in comments

2.4 Which organisation/body designates the default supplier?

- A) The supplier
- B) The DSO
- C) The regulator
- D) Government
- E) Other public authorities
- F) Other, please specify in comments

2.5 Who is the default supplier/are the default suppliers?

- A) Incumbent
- B) Other, please specify in comments

2.6 Does the default supplier provide this service for a defined period?

- A) Yes, there is a defined maximum period
- B) Yes, there is a fixed period
- C) No

PART 3 Supplier of last resort

3.1 Does a definition of “supplier of last resort” exist for your energy consumers?

- A) Yes
- B) No, proceed to question 4.1

3.2 If yes, at what level is it defined/determined?

- A) In primary law
- B) In secondary law
- C) In general terms and conditions
- D) Other, please specify in comments

3.3 If you have a supplier of last resort for energy consumers, in which cases is it applicable?

- A) Customer non-payment
- B) Customer cannot find a supplier on the market
- C) Supplier going bankrupt
- D) Moving in without choosing a supplier
- E) Customer does not choose a supplier (for instance when the market opens)
- F) Expired contract
- G) Other, please specify in comments

3.4 Which organisation/body designates the supplier of last resort?

- A) The supplier
- B) The DSO
- C) The regulator
- D) Government
- E) Other public authorities
- F) Other, please specify in comments

3.5 Who is the supplier of last resort/are the suppliers of last resort?

- A) Incumbent supplier
- B) Other, please specify in comments

3.6 Does the supplier of last resort provide this service for a defined period?

- A) Yes, there is a defined maximum period
- B) Yes, there is a fixed period
- C) No

PART 4 No definition of default supplier and/or supplier of last resort

4.1 If you lack definitions for default supplier and/or supplier of last resort, do you still have a mandatory system that ensures the customer is supplied with energy in the following situations?

- A) Customer non-payment
- B) Customer cannot find a supplier on the market
- C) Supplier going bankrupt
- D) Moving in without choosing a supplier
- E) Customer does not choose a supplier (for instance when the market opens)
- F) Expired contract
- G) Other, please specify in comments

4.2 Is there a defined period?

- A) Yes, there is a defined maximum period
- B) Yes, there is a fixed period
- C) No

Annex 2 List of abbreviations

| Term | Definition |
|-------|---|
| CEER | Council of European Energy Regulators |
| DSO | Distribution System Operator |
| EREGG | European Regulators Group for Electricity and Gas |
| EC | European Community |
| GGP | Guidelines of Good Practice |
| kW | kilowatt |
| KWh | Kilowatt hour |

Annex 3 ERGEG

The European Regulators for Electricity and Gas (EREGEG) was set up by the European Commission in 2003 as its advisory group on internal energy market issues. Its members are the energy regulatory authorities of Europe. The work of the CEER and EREGEG is structured according to a number of working groups, composed of staff members of the national energy regulatory authorities. These working groups deal with different topics, according to their members' fields of expertise.

This report was prepared by the Customer Empowerment Task Force of the Customer Working Group.