



Energy
Security
Project

INTRODUCTION OF MARKET INTEGRITY AND TRANSPARENCY LEGISLATION IN UKRAINE

MATERIALS FOR MEMBERS OF PARLIAMENT WORKSHOP

May 26, 2021

INTEGRITY AND TRANSPARENCY OF UKRAINIAN ENERGY MARKETS: NATIONAL AND EU CONTEXT OF REMIT

INTEGRITY AND TRANSPARENCY OF UKRAINIAN ENERGY MARKETS

NATIONAL CONTEXT

- ✓ **transfer to the European competitive models** for the electricity (from a single-buyer model) and gas markets (from a single-buyer model)
- ✓ **further market liberalization** (PSO lifting in the gas market) with the opening of all market segments (daily gas balancing, electricity auxiliary services)
- ✓ **oversight system of the regulators and competition protection authority** which is outdated and does not comply with current challenges of an open competitive market
- ✓ imperfectness or **lack of market infrastructure** (exchange, clearing)
- ✓ lack of **accepted practice, experience and culture** of market relations

Ukrainian markets are more prone to manipulation and abuse.

This **threatens with market crash and financial instability of the energy sector.**

INTEGRITY AND TRANSPARENCY OF UKRAINIAN ENERGY MARKETS

EUROPEAN CONTEXT

- ✓ Ukraine's membership in the Treaty Establishing Energy Community
- ✓ **size** of Ukrainian energy markets (several times larger than the general scope of the Energy Community markets and are among the largest in Europe)
- ✓ **Euro integration aspirations** of Ukraine and **prospects of market integration** with the EU energy markets (technical step – integration with ENTSO-E/G)
- ✓ further **development of EU energy legislation**, with formation of a single energy market and proper attention to climate challenges
 - new approaches to 4th Energy Package, strengthening of ACER role, the Green Deal...

At the same time, integration of Ukrainian energy markets with the EU energy markets requires **adaptation of the relevant terms and practices**, with observance of a number of **preconditions**.

INTEGRITY AND TRANSPARENCY OF UKRAINIAN ENERGY MARKETS

EUROPEAN CONTEXT – preconditions for market regulation

- ✓ Legal and regulatory framework ensuring integrity and transparency of Ukrainian energy markets **should be harmonized with EU legislation**:
 - Regulation # 1227/2011 (REMIT), Implementing Regulation # 1348/2014
 - Guidances by ACER (REMIT guidance, TRUM, ...) and ECRB
- ✓ **An efficient and timely market monitoring system** should be established
- ✓ The Regulator should **efficiently combat the market manipulations and abuses**
- ✓ In view of significant powers of the Regulator, it **should be independent of both private interests and state executive authorities and politicians.**
- ✓ The Regulator **efficiently cooperates with in-Country regulators** (AMCU, NSSMC), as well as with **ACER**, and when required – with **the regulators of EU countries**. Format of interaction is identified in REMIT.

INTEGRITY AND TRANSPARENCY OF ENERGY MARKETS: LEGISLATIVE FRAMEWORK

- ✓ According to the Energy Community Regulations (2018/10/MG-EnC), Ukraine **must implement “REMIT light.”**
- ✓ According to Annex XXVII-B of the Association Agreement between Ukraine and EU, with amendments introduced by the Council Decision (EU) 2019/466 of March 18, 2019, Ukraine **must implement Regulation (EU) # 1227/2011, Regulation (EU) # 543/2013 and Regulation (EC) # 715/2009.**
- ✓ According to Article 25 of the Association Agreement between Ukraine and EU, the Parties **shall progressively establish a free trade area over a transitional period of a maximum of 10 years (2024).**

Therefore

- In view of **challenges of liberalized energy markets** and the **prospects of their integration with the EU with establishment of a free trade area by 2024**, Ukraine should transpose EU legislative framework related to integrity and transparency of energy markets **as soon as possible and in the most complete form and contents.**

INTEGRITY AND TRANSPARENCY OF UKRAINIAN ENERGY MARKETS: CURRENT “REMIT” BILLS COMPARED

BILLS # 4503 AND # 5322-1

Focused on other aspects, and not really aimed at implementing REMIT:

- Concentrate on implementation of “REMIT light”
- Do not provide for reporting information by energy market participants to the Regulator, as required by Article 8 of Regulation (EU) # 1227/2011.
- Inside Information Platform is not envisaged, there are no requirements to disclose inside information of parent company and affiliated persons.
- Contain provisions not related to REMIT implementation; these are provisions on:
 - self-regulatory organization (# 4503);
 - market makers (# 4503 and # 5322-1);
 - measures to maintain liquidity, etc.

BILL # 5322

Most comprehensively transposes REMIT provisions into the Ukrainian framework:

- Implementation of full REMIT:
 - NEURC enabled to collect the necessary information from Market Participants and Operators daily and automatically.
 - Full data collection, analysis, investigation and penalizing responsibility for NEURC, as per the EC Regulations 1227/2011 and 1348/2014.
- NEURC acting as both the national regulator and ACER in Ukraine REMIT-wise.
- NEURC registering the obligated MPs, RRM and IIPs.
- NEURC organization and systems capable to identify, investigate and penalize the abusers.
- Includes a non-exhaustive list of types of manipulation in the wholesale energy markets.
- Chinese walls inside NEURC and checks against the potential regulatory discretionary approaches to be put in place.

**INTEGRITY AND TRANSPARENCY OF
UKRAINIAN ENERGY MARKETS:**
HOW USAID ENERGY SECURITY PROJECT
MAY ASSIST IN REMIT IMPLEMENTATION

HOW ESP MAY HELP IN REMIT IMPLEMENTATION?

ESP may assist in terms of addressing the organizational and infrastructural (IT) challenges of the State Organizations (including NEURC and Operators):

- Assisting in internal organization;
- Assisting in establishing the secondary legislation and requirements for the systems;
- Procurement of the IT infrastructure for NEURC and Operators;
- Trainings and capacity building.

— THANK YOU

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