

## **Position Paper on ACER's Assessment of Energy Emergency Measures and Their Impact on Energy Market Participants**

European Enterprise Alliance and Union of Entrepreneurs and Employers (ZPP) present our joint position on ACER's latest Assessment of Energy Emergency Measures and Their Impact on Energy Market Participants. We, the European Enterprises Alliance, and Union of Entrepreneurs and Employers (ZPP) firmly believe in fostering a resilient and competitive energy sector that serves as the cornerstone of sustainable economic growth and environmental stewardship. As a collective alliance of businesses deeply entrenched in the energy market, we reviewed the comprehensive assessment conducted by the Agency for the Cooperation of Energy Regulators (ACER) on the intricate web of emergency measures introduced to address the ongoing energy crisis. ACER's assessment of over 400 energy emergency measures not only provides invaluable insights into the current state of the energy market but also sheds light on how the legal reality has been rapidly evolving for energy market participants. In this position paper, we delve into the situation on the energy market, the implications of the emergency measures, and the transformative changes in the legal landscape that have far-reaching ramifications for businesses and consumers alike.

### ***Background:***

The energy landscape in Europe has undergone a profound transformation in recent times, as a convergence of factors has led to a severe energy crisis. In response to this crisis, policy makers have swiftly introduced a wide array of emergency measures aimed at stabilizing the energy market and mitigating its far-reaching consequences. The Agency for the Cooperation of Energy Regulators (ACER) has undertaken an extensive assessment of over 400 energy emergency measures, revealing a rapidly changing legal reality for energy market participants.

### ***Situation on the Energy Market in Europe***

Recently, the European energy market has been grappling with a multifaceted crisis driven by a convergence of factors. Fluctuations in energy prices, supply chain vulnerabilities exacerbated by global events, geopolitical tensions, and shifting demand patterns have collectively upended the energy sector's stability. The volatility observed in energy and gas prices has reverberated across the continent, impacting consumers, businesses, and economies alike. While media coverage has provided a glimpse into the turmoil, a comprehensive understanding of the broader context and underlying market dynamics is essential. Today, after several months of this situation, we can say that united Europe managed to overcome most of critical obstacles and is drifting towards relative stability.

### ***ACER's Assessment of 400+ Energy Emergency Measures: A Transformative Legal Landscape***

ACER's meticulous assessment of the multitude of energy emergency measures has brought to light the intricate and evolving legal framework that energy market participants are grappling with. These measures, implemented in response to unprecedented challenges such as energy price volatility, supply chain vulnerabilities, and demand fluctuations, have not only aimed to mitigate the immediate impacts of the energy crisis but have also significantly redefined the legal landscape in which energy market participants operate.

### ***Emergency Measures Results: Navigating a Complex Landscape***

The introduction of emergency measures aimed at addressing the energy crisis has generated a spectrum of outcomes. Price caps, contributions to funds, and other interventions have sought to provide immediate relief to energy consumers and stabilize energy prices. These measures have succeeded in dampening rapid spikes in energy costs and offering short-term respite to consumers. However, the rapid implementation of these measures has sometimes led to interpretive challenges and legal uncertainties, placing significant administrative burdens and excessive para-taxes on energy market participants.

### ***The Regulatory Landscape in Flux: Navigating Uncharted Waters***

The emergency measures deployed to address the energy crisis have not only sought to alleviate immediate challenges but have also ushered in significant shifts in the regulatory landscape. The swift introduction and modification of these measures reflect the urgency to stabilize the energy market. However, the dynamic approach

has concurrently introduced ambiguity and unpredictability, challenging the ability of energy market participants to effectively plan, invest, and operate.

### ***Dramatic Legal Realities and Future Implications***

The energy emergency measures and ACER's assessment thereof mark a turning point in the energy market's legal reality. As policy makers grapple with immediate crises and contemplate long-term energy transitions, a new equilibrium is sought between stability and sustainability. The energy sector's transformation, underscored by evolving legal frameworks, presents an opportunity to build a more resilient, competitive, and eco-friendly energy ecosystem.

### ***Navigating Forward: Conclusions and Recommendations***

As policy makers chart the path forward, informed decision-making is imperative to strike the delicate balance between immediate crisis management and sustainable, long-term energy solutions. ACER's assessment serves as a cornerstone for such decision-making. The following comprehensive recommendations can be proposed to guide future policy formulation:

***Transparency and Collaboration:*** Foster transparent and inclusive consultation processes that engage all relevant stakeholders, ensuring that policy decisions are well-informed and effectively executed.

***Long-Term Vision:*** Develop a comprehensive, long-term energy strategy that prioritizes market stability, competition, and the transition to sustainable energy sources which should align with broader environmental and economic goals.

***Regulatory Precision:*** Formulate clear, unambiguous regulations that anticipate potential ambiguities and unintended consequences. Legal clarity is paramount for energy market participants to navigate the regulatory landscape confidently.

***Adaptability and Flexibility:*** Design interventions with inherent adaptability to evolving market dynamics, technological advancements, and unforeseen challenges. A flexible approach will empower the sector to respond effectively to changing energy trends.

***Balancing Short-Term and Long-Term Objectives:*** Strike a balance between addressing immediate crises and advancing long-term sustainability. Emergency measures should not hinder progress toward a low-carbon, resilient energy system.

**Support for Sustainable Energy:** Recognize the pivotal role of zero- and low-emission energy sources and explore mechanisms to incentivize their growth, such as financial safeguards, incentives, and market frameworks.

**Collaborative Governance:** Foster collaboration among governments, regulatory bodies, energy market participants, and civil society to ensure a holistic and effective approach to addressing energy challenges.

### **Conclusion**

European Enterprises Alliance and Union of Entrepreneurs and Employers (ZPP) envision an energy sector characterized by stability, resilience, and sustainability. ACER's assessment of energy emergency measures offers a vital foundation for policymakers to navigate the complex landscape of the energy market. Informed by this assessment and the comprehensive recommendations provided, we call for a collective effort to shape a forward-looking energy sector that addresses immediate challenges while setting the course for a low-carbon future. As we move forward, the lessons learned from this crisis and the evolving legal reality stand as guideposts, illuminating the path toward a resilient and competitive energy market that aligns with Europe's economic and environmental aspirations. At the same time, we must remember that frequent and dramatic changes in the law weaken the market and its participants. They increase the risk assessment of the business activity and weaken the motivation to invest. It is important that decision-makers act in such a way as to maintain long term trust among entrepreneurs.

### **BIBLIOGRAPHY**

"ACER's Assessment of 400 Energy Emergency Measures Seeks to Inform Policy Makers Going Forward." ACER (Agency for the Cooperation of Energy Regulators), News and Events, <https://acer.europa.eu/news-and-events/news/acers-assessment-400-energy-emergency-measures-seeks-inform-policy-makers-going-forward>

"Global Energy Crisis." IEA (International Energy Agency), 2023. URL: <https://www.iea.org/topics/global-energy-crisis>.

"ZPP Memorandum: Temporary Intervention Mechanisms Should Not Permanently Interfere with the Energy Market in Poland." ZPP (Polish Confederation Lewiatan), 2023. URL: <https://zpp.net.pl/memorandum-zpp-tymczasowe-mechanizmy-interwencyjne-nie-powinny-trwale-ingerowac-w-rynek-energii-w-polsce/>.

"Energy Crisis: Three EU-Coordinated Measures to Cut Down Bills." Infographic.  
COUNCIL OF THE EUROPEAN UNION, URL:

<https://www.consilium.europa.eu/en/infographics/eu-measures-to-cut-down-energy-bills/#:~:text=EU%20countries%20have%20therefore%20adopted,2022%20to%2031%20March%202023.>

Sgaravatti, Giovanni, et al. "National Fiscal Policy Responses to the Energy Crisis." 26 June 2023, Bruegel, <https://www.bruegel.org/dataset/national-policies-shield-consumers-rising-energy-prices>.