19th BES SEMINAR

ENFORCEMENT IN THE ENERGY SECTOR: PRINCIPLES, RULES AND ROLES

Effective enforcement in the energy sector requires adequate regulatory powers, proportionate sanctions and robust procedural safeguards. EU case law and cooperation among competent authorities play a crucial role in ensuring compliance while safeguarding fundamental rights.

1. EU ENERGY LAW: RULES AND JUDICIAL PROTECTION



- Court of Justice of the EU: Ensures consistent interpretation of EU energy law.
- National courts: Protect market participants' rights through judicial remedies.
- Energy Community: EU-derived rules apply, but enforcement mechanisms differ from those of the EU.
- Regulatory alignment: Requires strong national institutions and legal protection.

2. ADMINISTRATIVE SANCTIONS: PURPOSE AND LIMITS



- Punitive sanctions: Penalise infringements and deter misconduct.
- Corrective measures: Restore compliance without necessarily being punitive.
- Engel criteria: Identify administrative penalties subject to criminal-law safeguards under the ECHR.
- Legal safeguards: Legality, proportionality, rights of defence and judicial review.

3. INVESTIGATIVE POWERS: RIGHTS AND SAFEGUARDS



- Investigative tools: Information requests, interviews, market inquiries and inspections.
- Fundamental principles: Legality, necessity, proportionality and protection against arbitrariness.
- Rights of defence: Undertakings cannot be compelled to admit infringements.
- Digital evidence: Privacy, confidentiality and legal privilege limit investigative powers.

4. COOPERATION BETWEEN ENFORCEMENT AUTHORITIES



- Sincere cooperation: Authorities must respect one another's competences.
- Meta Platforms judgment: Clarifies cooperation between competition and data protection authorities.
- Regulatory coordination: Consultation and information exchange help prevent conflicting decisions.

5. ENFORCEMENT IN PRACTICE: THE FRENCH EXPERIENCE



- CoRDiS: CRE's committee responsible for dispute settlement and sanctions.
- Procedural guarantees: Separation of prosecution and decision-making, rights of defence and judicial review.
- 17 sanction decisions: Approximately €35.5 million in cumulative penalties.
- REMIT enforcement: Cases involving inside information, insider trading and information requests.

KEY TAKEAWAY

Effective enforcement relies not only on regulatory powers, but also on the procedural safeguards and institutional cooperation that ensure their legitimate, consistent and credible exercise.

BES Balkan Energy School

Contact us
info@balkanenergyschool.org
Where we are
BES - Piazza Cavour 5 - 20121 - Milano