19th BES SEMINAR

ENFORCEMENT IN THE ENERGY SECTOR: PRINCIPLES, RULES AND ROLES

Rules alone cannot ensure the proper functioning of energy markets . Their effectiveness depends on the ability of regulatory authorities to monitor market behaviour, investigate suspected infringements and enforce compliance. In increasingly interconnected European energy markets, these powers must be exercised in accordance with fundamental rights and the principles of procedural fairness.

The 19th Balkan Energy School (BES) seminar, held online on November 6, 2026, explored the legal and institutional foundations of enforcement in the energy sector. Bringing together legal experts, academics and representatives of regulatory authorities, the event examined how effective supervision and credible sanctions can be combined with the principles of proportionality, judicial protection and cooperation between enforcement authorities.

EU energy law and the limits of judicial enforcement

The Court of Justice of the European Union plays a central role in ensuring the consistent interpretation and application of EU energy legislation. National courts provide the primary means through which market participants can safeguard their rights, supported by mechanisms such as preliminary references to the Court of Justice and judicial review of regulatory decisions.

The Energy Community Contracting Parties operate within a different institutional framework. Although required to implement EU-derived energy legislation and take account of relevant European case law, they remain outside the EU judicial system.

The Energy Community Secretariat can initiate infringement proceedings that may lead to decisions by the Ministerial Council. However, this mechanism does not provide judicial remedies equivalent to those available under EU law or impose comparable financial penalties for non-compliance.
For countries pursuing closer integration with the European energy market, effective regulation therefore requires not only legislative alignment but also national institutions capable of applying common rules consistently and ensuring adequate legal protection.

Administrative sanctions: defining the boundaries of regulatory power

Administrative sanctions enable regulatory authorities to penalize infringements and deter future misconduct. However, their nature and purpose determine which legal safeguards apply.

Financial penalties intended to punish unlawful behaviour differ from corrective measures designed to restore compliance or provide reimbursement to consumers. Under the European Convention on Human Rights, an administrative penalty may be considered criminal in nature regardless of its classification under national law.

The *Engel* criteria, developed by the European Court of Human Rights, assess the nature of the offence and the severity of the penalty. Where the Convention's criminal-law safeguards apply, regulators must ensure fair procedures, respect for the rights of defence and effective judicial review.

Proportionality is equally essential: sanctions must be suitable for achieving their intended objectives, necessary and appropriately balanced against the public interest pursued. These principles help ensure that enforcement remains credible without imposing unjustified burdens on market participants.

Investigations and inspections: where enforcement meets fundamental rights

Effective investigations require access to information, but regulatory powers must respect privacy, confidentiality and rights of defence.

Information requests, interviews, market inquiries and inspections involve different levels of intrusion and must comply with the principles of legality, necessity and proportionality. Authorities may require factual information and existing documents, but cannot compel undertakings to admit infringements that the authorities themselves must establish.

Digital investigations raise additional concerns. Access to emails, electronic communications and personal devices requires particular attention to privacy, legal professional privilege and the legal limits on investigative powers.

European case law has clarified important safeguards concerning inspections, confidential material and judicial authorisation. These protections must be respected throughout the investigative process, helping to ensure that evidence is lawfully obtained and that regulatory decisions can withstand judicial scrutiny.

Cooperation between authorities: avoiding conflicting decisions

Energy regulation increasingly intersects with competition law, consumer protection and data protection, creating situations in which different authorities may examine the same conduct.

The EU principle of sincere cooperation requires authorities to respect one another's competences and coordinate their activities where responsibilities overlap.

The Court of Justice's Meta Platforms judgment illustrates this obligation. A competition authority may assess compliance with data protection rules when investigating an abuse of dominance, but must respect the responsibilities and decisions of the competent data protection authorities.



Consultation, information exchange and due consideration of existing decisions can help prevent inconsistent regulatory outcomes. These mechanisms are particularly important in interconnected markets, where enforcement increasingly crosses national and sectoral boundaries.

Enforcement in practice: the French regulatory experience

The French system provides a practical example of how sanctioning powers can be structured and exercised within an independent regulatory authority.

The Dispute Settlement and Sanctions Committee (CoRDiS), operating within the French Energy Regulatory Commission (CRE), resolves certain disputes involving electricity and gas network operators and imposes sanctions for breaches of energy legislation, including the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT).

Its institutional structure separates prosecution and decision-making functions, while safeguarding rights of defence, adversarial proceedings and judicial review before the French Council of State.

According to the figures presented during the seminar, CoRDiS had issued 17 sanction decisions, with cumulative financial penalties of approximately €35.5 million.

Recent cases concerning delayed disclosure of inside information, insider trading and failure to comply with to comply with regulatory information requests illustrate how enforcement supports market transparency and compliance.

Building effective enforcement across European energy markets

Effective enforcement depends on a combination of adequate regulatory powers, credible sanctions and robust legal safeguards.

For the Western Balkans, aligning national legislation with EU energy rules must go hand in hand with strengthening regulatory institutions and their capacity to investigate infringements, enforce compliance and cooperate with other authorities.

European case law and national enforcement experience offer valuable guidance in developing these capabilities while safeguarding fundamental rights and judicial accountability.

Ultimately, the credibility of energy sector regulation depends not only on the ability to enforce the rules, but also on the way in which those powers are exercised. Legal certainty, proportionality and institutional cooperation remain essential elements in ensuring fair and efficient European energy markets.