

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1991/0384(COD) Procedure completed
Electricity: common rules for the internal market Repealed by 2001/0077(COD)	
Subject 3.60.03 Gas, electricity, natural gas, biogas	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ENER Research, Technological Development and Energy	PSE DESAMA Claude J.-M.J.	02/10/1996
Council of the European Union	Council configuration	Meeting	Date
	Fisheries	1983	19/12/1996
	Budget	1945	25/07/1996
	Energy	1938	20/06/1996
	Energy	1921	07/05/1996
	Energy	1894	20/12/1995
	Energy	1850	01/06/1995
	Energy	1807	29/11/1994

Key events			
06/04/1992	Committee referral announced in Parliament, 1st reading		
08/10/1993	Vote in committee, 1st reading		Summary
08/10/1993	Committee report tabled for plenary, 1st reading	A3-0281/1993	
16/11/1993	Debate in Parliament		Summary
17/11/1993	Decision by Parliament, 1st reading	T3-0640/1993	Summary
29/11/1994	Debate in Council	1807	
01/06/1995	Debate in Council	1850	Summary
20/12/1995	Resolution/conclusions adopted by Council		Summary
05/09/1996	Committee referral announced in Parliament, 2nd reading		
19/11/1996	Vote in committee, 2nd reading		Summary
10/12/1996	Debate in Parliament		Summary
11/12/1996	Decision by Parliament, 2nd reading	T4-0665/1996	Summary

19/12/1996	Act approved by Council, 2nd reading		
19/12/1996	Final act signed		
19/12/1996	End of procedure in Parliament		
30/01/1997	Final act published in Official Journal		

Technical information

Procedure reference	1991/0384(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealed by 2001/0077(COD)
Legal basis	EC before Amsterdam E 100A; EC before Amsterdam E 066; EC before Amsterdam E 057-p2
Stage reached in procedure	Procedure completed
Committee dossier	ENER/4/08141

Documentation gateway

Legislative proposal		COM(1991)0548	21/02/1992	EC	Summary
Economic and Social Committee: opinion, report		CES0077/1993 OJ C 073 15.03.1993, p. 0031	27/01/1993	ESC	Summary
Committee opinion	ECON	PE205.223/DEF	27/09/1993	EP	
Committee draft report		PE203.946/COR	30/09/1993	EP	
Committee draft report		PE203.946/AEL	04/10/1993	EP	
Committee draft report		PE203.946/AGA	04/10/1993	EP	
Amendments tabled in committee		PE203.946/CEL	05/10/1993	EP	
Committee report tabled for plenary, 1st reading/single reading		A3-0281/1993 OJ C 296 01.11.1993, p. 0004	08/10/1993	EP	
Amendments tabled in committee		PE203.946/AM	12/10/1993	EP	
Amendments tabled in committee		PE203.946/CGA	12/10/1993	EP	
Reconsultation		COM(1993)0570	10/11/1993	EC	
Amendments tabled in committee		PE203.946/AMC	11/11/1993	EP	
Text adopted by Parliament, 1st reading/single reading		T3-0640/1993 OJ C 329 06.12.1993, p. 0093-0150	17/11/1993	EP	Summary
Modified legislative proposal		COM(1993)0643	07/12/1993	EC	Summary
Economic and Social Committee: opinion, report		CES0577/1994 OJ C 195 18.07.1994, p. 0082	28/04/1994	ESC	Summary
Council position		08811/2/1996 OJ C 315 24.10.1996, p. 0018	25/07/1996	CSL	Summary
Commission communication on Council's		SEC(1996)1409	04/09/1996	EC	Summary

position					
Committee draft report		PE219.379	28/10/1996	EP	
Amendments tabled in committee		PE219.379/AM	14/11/1996	EP	
Committee recommendation tabled for plenary, 2nd reading		A4-0380/1996 OJ C 380 16.12.1996, p. 0005	19/11/1996	EP	
Text adopted by Parliament, 2nd reading		T4-0665/1996 OJ C 020 20.01.1997, p. 0045-0055	11/12/1996	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(1996)0710	12/12/1996	EC	Summary
Non-legislative basic document		COM(1999)0198	04/05/1999	EC	
Follow-up document		SEC(1999)0712	10/05/1999	EC	
Follow-up document		SEC(2001)1957	03/12/2001	EC	Summary
Document attached to the procedure		SEC(2002)1038	01/10/2002	EC	Summary

Additional information

European Commission

[EUR-Lex](#)

Final act

[Directive 1996/92](#)
[OJ L 027 30.01.1997, p. 0020](#) Summary

Electricity: common rules for the internal market

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Electricity: common rules for the internal market

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Electricity: common rules for the internal market

The plenary assembly adopted the report by Mr Claude Desama (PSE, B) and confirmed the main approach set out by the Committee on Energy, Research and Technology. Harmonisation would initially be given precedence over liberalisation, whilst liberalisation would occur over a transitional period finishing at the end of 1998. Harmonisation involved establishing common rules on production, transport and distribution (electricity) together with storage, transport and distribution (gas). It included defining rules for the organisation and operation of these sectors, tasks of general interest and access to the market. It particularly targeted environmental protection, taxation and transparent accounting.?

Electricity: common rules for the internal market

The amended Commission proposal incorporated many of the amendments adopted by the European Parliament and took account of the six principles which the Council wanted: - security of supply; - protection for the environment; - protection for small consumers (by strengthening public service requirements); - transparency and non-discrimination; - recognition of the differences between the existing national systems; - transitional provisions (a transitional period was scheduled from 1 July 1994 to 31 December 1998 at the earliest). The Commission's main amendments in the electricity sector basically concerned: - the structure of the proposal: a special chapter was devoted to the rules for access to networks; - third-party access to the network. The regulated access provided for in the initial proposal was replaced by the possibility of negotiated access, with arbitration mechanisms if there were problems in negotiating or implementing the contract; - the introduction of a work programme allowing the Commission, during the second phase of market liberalisation, to draw up the harmonisation proposals needed for the successful operation of the market; - strengthening the references to public service requirements; - unbundling: separate management was abolished; separate accounting was maintained, however, and supplemented by giving the competent authorities right of access to companies' internal documents; - the introduction of tendering procedures as an option when allocating new transport and production capacity; - the

simplification of the rules relating to use of the transport and distribution networks. The Commission did not accept Parliament's amendments on the following: - the requirement for the Member States to set up an Electricity and Gas Council; - the link between the transition to the final phase of liberalisation and prior harmonisation in the environmental and taxation fields; - allowing the distribution companies to keep the supply monopoly. ?

Electricity: common rules for the internal market

?Following the modified proposals for Directives on setting up common rules for the internal gas and electricity market, after consultation of the European Parliament and of the Economic and Social Committee, and while confirming the conclusions adopted by the Council on 30 November 1992 and 29 November 1994, the Council: 1) reaffirms the 4 points of agreement as identified in the Council conclusions of 29 November 1994, keeping in mind the need for further discussion and clarification with regard to market liberalisation beyond the production sector and other aspects of the Directive, for instance that of harmonisation and taking into account the fact that each of these 5 key topics should represent part of an overall agreed solution; 2) recalls that, in the abovementioned conclusions of 29 November 1994, the Council requested further discussion on how to open the markets beyond the area of electricity production, especially on the question of the possible simultaneous introduction of a negotiated TPA and a so-called single-buyer system. In this context it agreed to verify that both approaches, in a spirit of reciprocity, lead to equivalent economic results and, therefore, to a directly comparable level in the opening of markets and to a directly comparable degree of access to electricity markets, and that they conform to the provisions of the Treaty; 3) notes the Commission's working paper on the organisation of the internal electricity market, following the request expressed by the Energy Council at its meeting on 29 November 1994; 4) confirms, in the light of this working paper, that one of the Directive's main objectives concerning the internal electricity market is to increase competition in the interests of all consumers, and that, to this end, European electricity systems must progressively take market mechanisms into account, allowing in particular for the situation of independent producers and eligible consumers, in the framework of flexible and pragmatic solutions that will: - permit the performance of public service obligations imposed on electricity undertakings in the general economic interest, including objectives set by each Member State regarding security of supply and environmental protection. The implementation of these obligations, in accordance with the Treaty, and in particular with Article 90(2) thereof taken as a whole, will include, for those Member States that so wish, the implementation of long-term planning, as cited by the Commission and in line with the Council conclusions of 30 November 1992, as being a means of ensuring these objectives. The development of trade must not be affected to an extent that would be contrary to the interests of the Community; - take into consideration the principle of subsidiarity and the different situations and forms of organisation in the various Member States in this sector as well as endogenous resource utilisation; - take into account the question of transitional arrangements, in accordance with the conclusions of the Council at its meeting on 30 November 1992; 5) considers that the two systems, both within the European Community and within those countries of the European Community that so wish, can co-exist subject to certain conditions, intended to ensure reciprocity between the two systems and equivalent effects, being met as indicated in paragraph 2. There is agreement on the following points without prejudice to the discussions to be continued on these conditions, as indicated in paragraph 6: - the single buyer must purchase electricity under objective conditions that guarantee, in particular, transparent transport prices and a total lack of discrimination; - a system of authorisations granted to independent producers, based on transparent criteria, will be introduced along with competitive bidding procedures in the zone covered by the single buyer, while complying with the provisions of paragraph 4; - within a single-buyer system, eligible consumers in accordance with the principle of equivalence referred to above, will be able to negotiate supply contracts abroad, while complying with the provisions of paragraph 4; - the appropriate conditions for transparency in transport and distribution will be defined in both systems so as to guarantee that any sort of discrimination or predatory behaviour, in particular in intra-Community trade, is avoided; - appropriate and effective regulatory and control mechanisms and mechanisms for the settlement of disputes will be introduced in both systems so as to avoid any abuse of a dominant position to the detriment in particular of consumers; - in the single-buyer system, producers who are not bound by contract with the single buyer should be able to export their electricity via the network of the single buyer, provided that there is sufficient transport capacity on that network and that this is technically feasible; 6) considers that further discussions are necessary on the following points: - the building and use of direct lines; - the question of the definition of independent producers; - the question of the definition of all eligible consumers and of their rights and responsibilities; - the concrete conditions for accepting or rejecting authorisations for independent producers in relation to planning and to the capacity of the system and the conditions under which independent producers may negotiate supply contracts with eligible consumers; - the question of possible quantitative limits on the electricity imported by eligible consumers; - the issue of integrated companies in both systems, as regards production, transport and distribution, so as to avoid discrimination, cross-subsidisation and unfair competition; - the question of who will be responsible, in both systems, for the organisation of the tender procedures; - the detailed procedures as regards transitional periods and arrangements; - the problem of stranded investments; - the conclusions to be drawn in particular from the working document submitted on 11 May 1995 by the Commission on the specific nature of small systems, notably small highly interconnected systems, in particular as regards the realisation of direct lines; 7) invites the Permanent Representatives Committee to finalise its work on the basis of these conclusions to enable the Council to adopt a common position before the end of the year.?

Electricity: common rules for the internal market

The Council held a discussion on the proposal for a directive on the common rules for the internal electricity market, at the close of which the Presidency drew the following conclusions: ?In accordance with the amended proposals for directives concerning common rules for the internal market in electricity and in gas, having consulted the European Parliament and the Economic and Social Committee and in accordance with the conclusions adopted by the Energy Councils on 30 November 1992, 29 November 1994 and 1 June 1995, the Presidency: 1. stresses the importance of achieving the internal market in electricity in terms of the competitiveness of the industry and economic development; 2. considers that the negotiations on the Directive concerning the internal market in electricity have reached a final stage enabling it to believe that adoption of a common position will be possible at the next meeting of the Energy Council; 3. notes that this progress was made possible by a substantial convergence of the positions of the various Member States and considerable clarification of the operation envisaged for the electricity systems of the Member States and is grounds for viewing the last compromise text of the Spanish Presidency as a valid basis for future proceedings; 4. considers it necessary to give further thought to the consequences of giving distributors rights and obligations similar to those of major consumers, taking account basically of the criteria of market opening, the task of public services, the general economic interest and the possibility of choice for the consumer. In this connection, it is essential that an equivalent and satisfactory degree of opening of the various electricity systems be gradually achieved; 5. notes that work will continue without interruption during the Italian Presidency, which will convene a meeting early in 1996 to discuss the question of the internal market in electricity with a view to achieving a common position?.

Electricity: common rules for the internal market

The common position roughly corresponds to the Commission's amended proposal and incorporates a number of amendments adopted by Parliament at first reading. It provides for the gradual stepping up of competition on the electricity market, while guaranteeing the supply of essential services to the public. The text of the common position is based on the following general framework: - separation of the Directive on the internal market in electricity from the Directive on the internal market in gas; - the internal market in electricity will initially be subject to a gradual market opening over nine years; - Member States may invoke either a tendering procedure or an authorization procedure when granting licences to construct new generating capacity; - Member States may invoke either the 'negotiated third party access' or the 'single buyer' systems to grant access to the grids; - all issues related to public service obligations are addressed in a specific Article; - with due regard to the principle of subsidiarity, Member States have been given a larger role in the implementation provisions. More specifically, the amendments introduced by the Council concern the following points: - general rules for the organization of the sector: opening up of the market to competition, a balance between competition and public service obligations and the scope of public service, with the introduction of procedures for the identification of public service obligations at the level of the Member States; - transmission system operation: elimination from the scope of the Directive of new transmitting capacity; objective, transparent and non-discriminatory criteria for the construction of new generating capacity; possibility for Member States to choose between the authorization procedure and the tendering procedure; - distribution system operation: Member States may impose on distribution companies an obligation to supply customers located in a given area, and regulate the tariff applicable to certain categories of customers; the distribution system operator may give priority to generating installations using renewable energy sources or producing combined heat and power; - unbundling and transparency of accounts: clarification of unbundling of accounts, which is maintained outside the scope of the Directive; obligation of integrated electricity undertakings, in the internal accounting, to keep separate accounts for their generation, transmission and distribution activities, and to publish, in notes to the annual accounts, a balance sheet and a profit and loss account for each of the electrical activities in which they are engaged; total independence of operation under the single buyer system; independence of operation under the negotiated access system; - organization of access to the system: obligation on system operators to publish an indicative range of prices for use of the transmission systems under the negotiated access system; Member States may opt for a regulated system of access procedure on the basis of published tariffs; single buyer system as an alternative to negotiated access; - opening up of the market: introduction of rules and mechanisms for the gradual and regular opening of the electricity market over a period of six years: the initial opening rate will reach approximately 22%, calculated on the basis of an average Community share (40 GWh) obligatory for all Member States, and will gradually rise to 33% (9 GWh) after six years; in the event of a larger opening decided at the national level, a safeguard clause, reviewed by the Commission after four and a half years, will prevent imbalance between the markets; - final provisions: introduction of rules covering the transitional regime applicable when commitments or guarantees of operation given before the entry into force of the Directive may not be honoured, and covering small isolated systems; abolition of the regular consultation procedures, but clarification of the review procedures, so that the Council and the EP would be able to consider the possibility of a further opening of the market which would be effective nine years after the entry into force of the Directive. . . ?

Electricity: common rules for the internal market

The Commission approved the common position, which followed the same approach as its own proposals. The amendments by the Council balanced the approach without affecting the basic principles on which the amended proposal was based. However, the Commission regretted that not all distributors were eligible to take part in the new organization of the market and that the Council had eliminated new transmitting capacities from the scope of the directive. It also deplored the fact that regular consultation with residential consumers, independent producers, the social partners, environmental protection organizations etc. had been deleted. The Commission reaffirmed its intention of presenting a report on harmonization requirements by the required date.?

Electricity: common rules for the internal market

After voting on 90 amendments, the Committee on Research and Energy (chaired by Umberto SCAPAGNINI, UPE, I), adopted (by 13 votes to 2 with 15 abstentions) Mr DESAMA's report on the directive on the liberalization of the internal market on electricity. The rapporteur Claude DESAMA (PES, B) said that Parliament had only a very narrow margin for manoeuvre in dealing with Council on this question. From the outset Council had shown itself very unresponsive to any further amendments that Parliament might adopt at second reading. The Council wanted to avoid reopening the debate on its fragile compromise on the common position adopted at the end of July after seven years of negotiations between the Member States. To change the text of the common position Parliament would need 314 votes for the adoption of amendments at second reading. Mustering these votes would be almost impossible since one of the two large groups, the European Peoples Party, was reluctant to go further, fearing that Parliament's negotiations with the Council might compromise an agreement that the Council had achieved with great difficulty. Furthermore the Commission thought the common position pragmatic and realistic and the fewer changes the better. In view of this, Mr DESAMA will be recommending the adoption at second reading of a limited number of amendments in priority areas. It was a question of making marginal improvements to the common position as the Council had accepted 80% of the amendments adopted by Parliament at first reading. However the questions dealt with were of some importance. After a number of very close votes, the committee adopted ten amendments on: - harmonization of environmental, tax and social protection standards for people working in the industry; - transparent accounting by companies in the electricity industry; - employment protection and, in conjunction with economic and social cohesion, land use planning; - the requirement to maintain a public service in order to ensure consumer protection and equal treatment of consumers; - the option for states not to apply the directive if it interferes with public service obligations imposed on companies; - long-term contracts between states and local or regional authorities; - cogeneration i.e. combined production of heat and electricity. Following the committee's vote, Mr DESAMA said he will again explore the possibilities of the Commission and Council taking up the amendments. He said it was a question of Parliament passing an important political message.?

Electricity: common rules for the internal market

In briefly tracing the long odyssey of the Directive on the internal electricity market Mr Desama (PSE, B) declared that he was satisfied with the very meticulous wording of the compromise that had resulted from the conciliation procedure; while underlining that the common position had taken over no less than 80% of the amendments voted for by Parliament at first reading, the rapporteur pleaded for at least two other important points to be retained in the wording of the Directive undergoing approval: the general introduction of eligibility criteria for distributors, which was currently beset with political difficulties, and the need for harmonisation in the areas of environmental protection, security and social standards. As far as the latter was concerned he called on the Commission to issue a communication setting out the general objectives of future harmonisation directives. Commissioner Papoutsis was in complete agreement with this, but stressed that the common position of the Council, which was the result of a compromise negotiated at the highest political level with most of Parliament's amendments already having been taken over, could not subsequently be changed without having to wait eight years in order to achieve unanimity within the Council.

Electricity: common rules for the internal market

In adopting the recommendation for second reading by Mr Claude DESAMA (PSE, B), Parliament approved the common position of the Council on the proposal for a Directive concerning liberalization of the internal market in electricity. For want of a sufficient majority Parliament was unable to adopt the amendments tabled by its Committee on Research, Technological Development and Energy covering, in particular, harmonization of rules concerning environmental protection, taxation and social protection of workers, transparency of company accounts, employment protection and regional planning, the public-service obligation, long-term contracts between State and local or regional authorities, and co-generation (combined heat and electricity production). ?

Electricity: common rules for the internal market

La Commission called on the Council to adopt definitively the directive on common rules for the internal market in electricity. The European Parliament did not adopt any amendments to the common position. ?

Electricity: common rules for the internal market

OBJECTIVE: to promote the completion of the internal market in electricity. **COMMUNITY MEASURE:** European Parliament and Council Directive 96/92/EC concerning common rules for the internal market in electricity. **SUBSTANCE:** the Directive establishes common rules for the production, transmission and distribution of electricity. It lays down the rules relating to the organization and functioning of the electricity sector, access to the market, the criteria and procedures applicable to calls for tender and the granting of authorizations, and the operation of systems. The internal market in electricity will initially be subject to a gradual market opening so that the electricity sector can adapt to its new environment. Member States may impose on undertakings operating in the electricity sector public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies, and to environmental protection. For the construction of new generating capacity, Member States may choose between an authorization procedure and a tendering procedure; the criteria should be objective, transparent and non-discriminatory. To grant access to the grids, Member States may choose between 'negotiated third party access' and the 'single buyer' systems. Member States should designate a system operator responsible for operating, maintaining and developing the transmission system in a given area, and its interconnectors, with other systems in order to guarantee security of supply. As regards distribution system operation, Member States may impose on companies an obligation to supply certain customers, and regulate the tariffs applicable to certain categories of customers; they may require the distribution system operator to give priority to generating installations using renewable energy sources or producing combined heat and power. As regards unbundling and transparency of accounts, the Directive requires integrated electricity undertakings, in their internal accounting, to keep separate accounts for their generation, transmission and distribution activities, and to include a balance sheet and a profit and loss account for each activity in notes to their accounts. In the event of a sudden crisis in the energy market a Member State may temporarily take the necessary safeguard measures. Member States may qualify for a transitional regime where commitments or guarantees of operation given before the entry into force of the Directive may not be honoured, and may qualify for derogations for their small isolated systems. The Directive will be the subject of a review, on the basis of a report by the Commission, in order to allow the Council and the EP to consider the possibility of a further opening of the market which would be effective nine years after the entry into force of the Directive. **DATE OF ENTRY INTO FORCE:** 19 February 1997. **DEADLINE FOR TRANSPOSITION:** 19 February 1999. Belgium, Greece and Ireland will have an additional period of respectively 1 year, 2 years and 1 year. ?