Rule of Law and the Security of Energy Supply
Energy utilities in times of crisis – victims or culprits?

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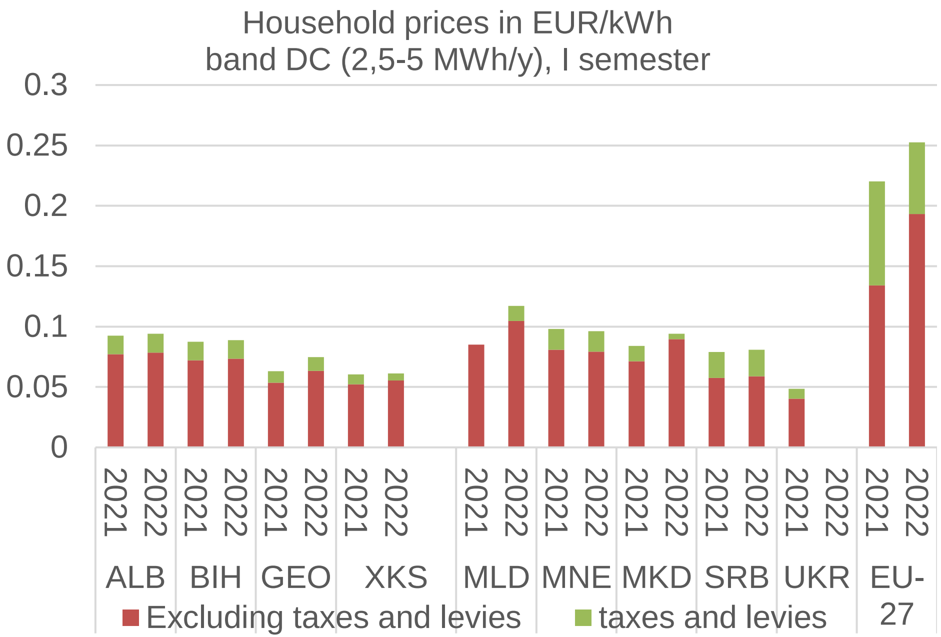
THE ENERGY CRISIS: MACROECONOMICS

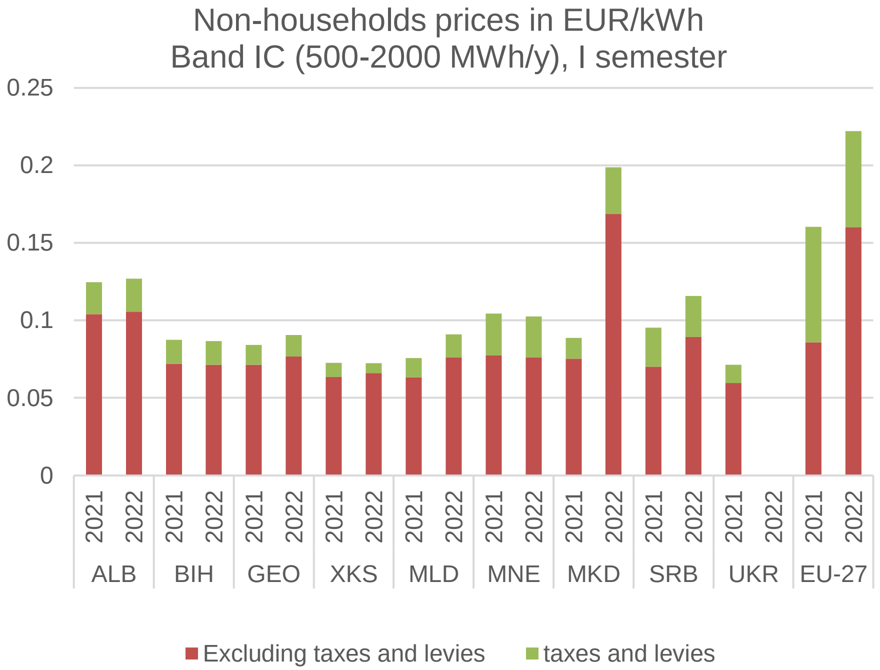
- **Diagnosis**
  - unusual high prices for imported electricity (2022: 1 bln EUR)
  - gap with low regulated retail prices puts pressure on utilities and budget …
  - … and on the retail price level
  - may result in social problems and bankruptcy, inflation and reduced economic growth

- **case study Serbia**

- **Energy Community support:** network and market integration

THE ENERGY CRISIS: MACROECONOMICS





Households prices increased 38% in Moldova, 18% in Georgia and 12% in North Macedonia, 15% in EU-27.
Average prices charged to households in EU-27 are two to four times higher than in any CP.

Industry prices increased 124% in North Macedonia, 21% in Serbia, 20% in Moldova, 8% in Georgia and 38% in EU-27.
The gap to EU-27 average increased, except in North Macedonia.

THE ENERGY CRISIS: MACROECONOMICS

- **Therapy**
  - A plethora of public interventions in the Energy Community
    - **Caps on wholesale gas prices below actual market price, affected competition/supplier switching**
    - **Obligations on utilities to purchase electricity for the needs of universal service providers and system operators for losses**
    - **Caps on profit margin of traders, suppliers and generators**
    - **Financial compensation by the state to suppliers or generators**
    - **Retail price caps = subsidizing final customers**
  - All in all - compliant with Energy Community law?
  - The problem with energy savings measures
    - **Requires price-sensitive retail price caps**
    - **Support targeted to poor/vulnerable customers**

Energy Community

THE ENERGY CRISIS: MICROECONOMICS

- **the financial situation of utilities**
  - Result of crisis and crisis response: utilities making losses, no time for windfall profits
  - Main problem: import costs cannot be passed on
  - Requires external budget support (EU 165 mln EUR, EBRD loans)

- **nothing new, only more dramatic**
  - A history of underinvestment
  - Old power plants, bad coal quality (winter 2021)
  - A history of lack of diversification and cluster risks (lignite imports)

- **utilities as systemic relevant companies:** too big to fail?

THE ENERGY CRISIS: MICROECONOMICS

- **issue #1: lack of liquidity**

- **issue #2: lack of diversification**
  - Corporate targets, ESG and decarbonization plans
  - Relation with private investment in renewables?
  - Internal carbon pricing?
  - Climate justice?

- **issue #3: corporate governance**
  - Beyond unbundling…
  - Corporatization?
  - Appropriate risk management and internal control/audit
  - Disclosure
  - Independent supervisory board
  - Management responsibility

THANK YOU.

Dirk Buschle *is Deputy Director of the Energy Community Secretariat since 2011 and has led its legal unit since 2007. In this position, he is in charge of ensuring implementation of European energy law in the countries of the Energy Community. He is also responsible for dispute resolution and negotiations and acts as mediator in high-profile investor-state conflicts in the energy sector. Among others, he mediated the dispute between the Ukrainian government and renewable energy investors settled in 2020.*

He is also Professor and Chairholder of the European Energy Policy and Climate Chair at the College of Europe in Bruges. Dirk Buschle graduated from Constance University, and earned his Ph.D. at St. Gallen University. He has widely published in different areas of European policy and law, and has lectured at Universities of Reykjavik, Constance and St. Gallen as visiting professor. Prior to his current position, Dirk Buschle was Head of Cabinet of the President of the Court of Justice of the European Free Trade Association (EFTA) in Luxembourg.