

# Application of the EU measures addressing security of supply concerns in the Energy Community

Rozeta Karova, Ph.D.

Senior Energy Lawyer, Energy Community Secretariat Vienna

- ❑ **Completing the internal market**

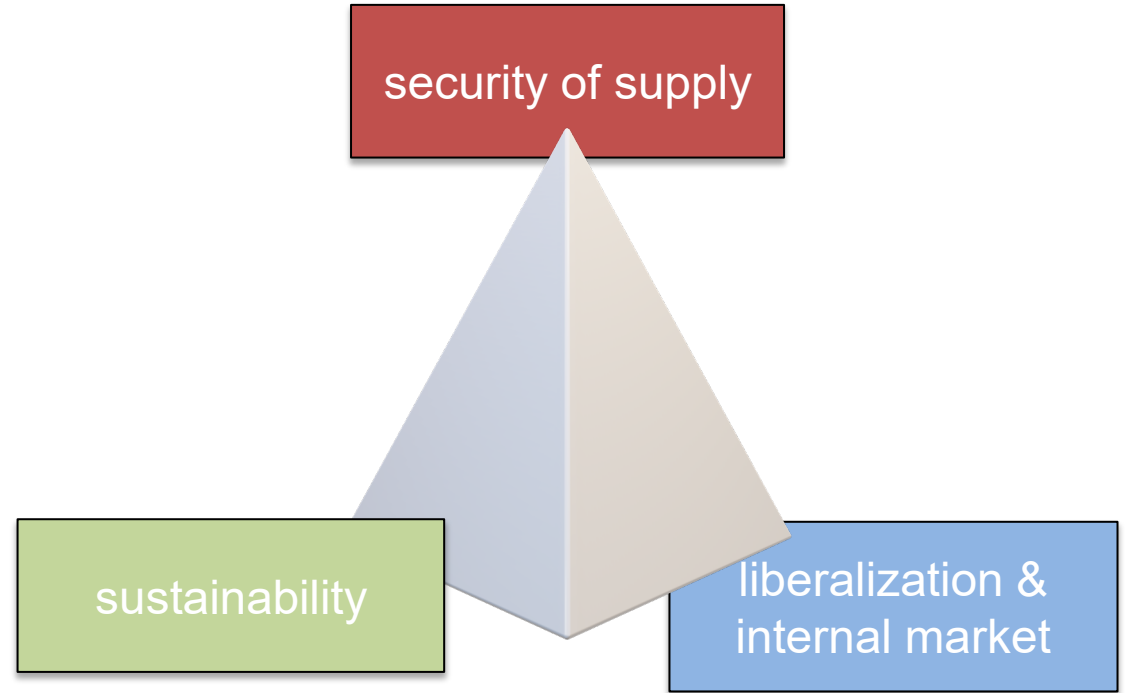
- Liberalization, integration, affordability

- ❑ **Safeguarding security of supply**

- internal / external

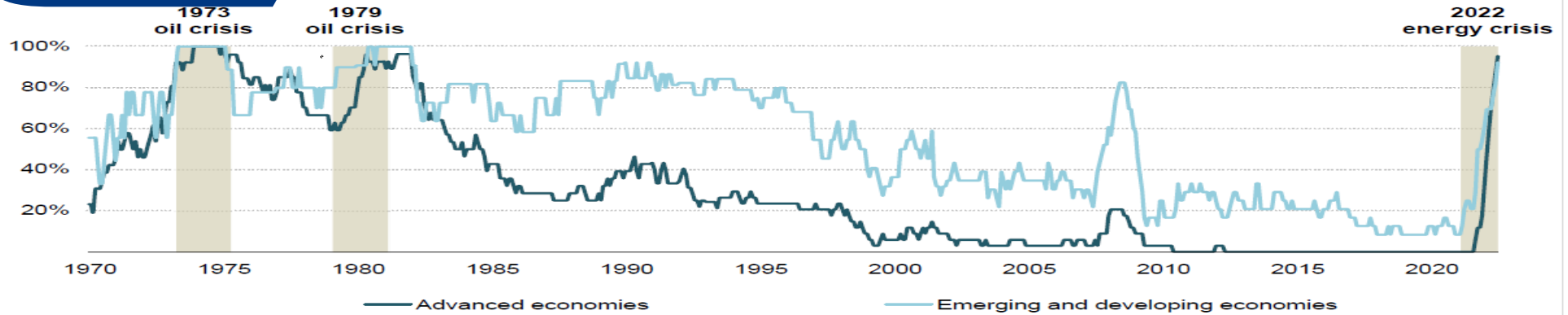
- ❑ **Combating climate change**

- from environment to climate

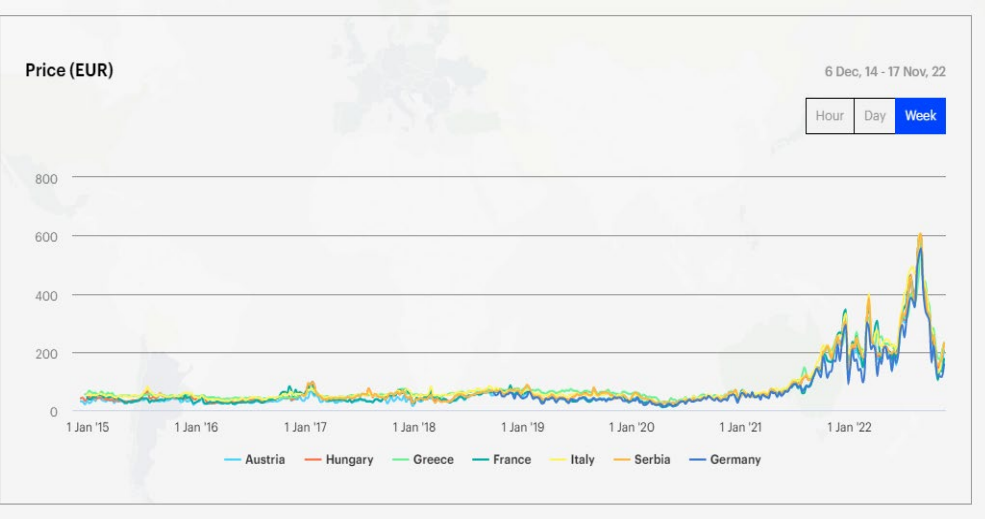


# Energy Price Spikes and Global Energy Crisis

Percentage of countries with annual inflation greater than 6%

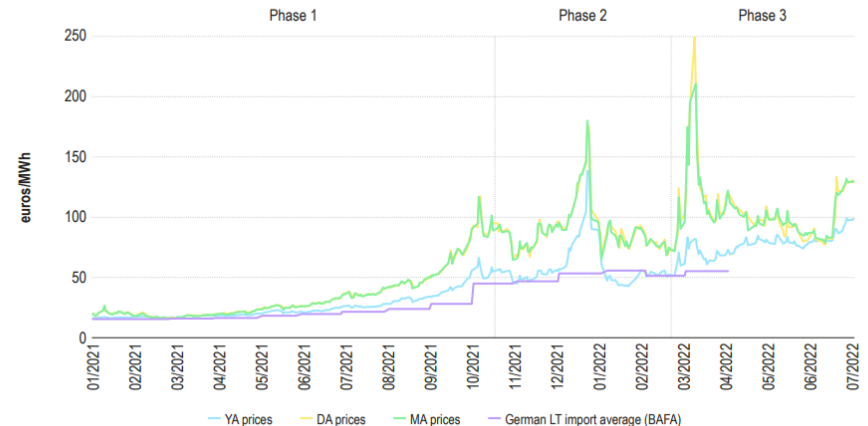


Source: IEA



IEA: Electricity prices development

Figure 6: Evolution of TTF spot and forward hub prices and LT contracts estimates – January 2019 – June 2022 – euros/MWh



Source: ACER calculations based on GIE and ICIS Heren.

ACER assessments

- Oct 2021
- Nov 2021
- April 2022

**13 Oct 2021**  
COM toolbox  
relying on existing  
measures

**8 March 2022**  
REPowerEU  
Communication

**23 March 2022**  
COM  
Communication  
on SoS and  
affordable energy  
prices

**18 May 2022**  
REPowerEU Plan

Temporary Crisis Framework  
for State aid

- March 2022
- update – Aug 2022
- update – Oct 2022

## REPowerEU Package



REPowerEU Plan Communication, Annexes and Staff Working Documents



Amendments to Renewable Energy Directive, Energy Performance of Buildings Directive and Energy Efficiency Directive



EU Save Energy Communication



EU Solar Strategy Communication



EU External Energy Engagement Communication



Recommendation on speeding up permit-granting procedures for renewable energy projects and facilitating Power Purchase Agreements



Amendment to RRF Regulation and Guidance



Draft Delegated Acts on RFNBO additionality and low-carbon hydrogen

Outside the package but to be adopted on the same day:



Electricity Market Design Communication



# The Legal Basis to Act...

- ❑ **Energy policy – Article 194**
- ❑ Internal market – Article 114
- ❑ **Security of Supply – Article 122**

Measures in exceptional circumstances ... in the spirit of solidarity

1. ...[t]he Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.

EU's energy policy aims at:

1. Ensuring the functioning of the energy market
2. Ensuring security of energy supply in the Union
3. Promoting energy efficiency and energy saving and the development of new and renewable forms of energy
4. Promoting the interconnection of energy networks

- ❑ Energy networks – Articles 170-172
- ❑ External policy – Articles 216-218



**EU objectives:**

- end the EU's **dependence on Russian fossil fuels**
- accelerate the **clean energy transition**
- tackle the **climate crisis**

### **Regulation 2022/1032 amending Gas Regulation 715/2009 and SoS Regulation 2017/1938 of 29.06.2022 incorporated in EnC by MC Decision No. 2022/01/MC-EnC of 30.09.2022**

- filling in storages 80% by 1.11.2022 and 90% as of 2023 - when possible with market-based measures
- filling trajectory with intermediate targets for 2023 adopted by ECS
- CPs without storage => arrangements with operators or market participants in other CP or MS and burden sharing mechanism

(to be notified to ECS)

- storages = critical infrastructure
- certification of storage operators

\* draft decision by 1.1.2023, 25d for ECS binding opinion and 25d for final decision

- incentives for filling in storages, including 100% discount on capacity-based transmission tariffs at entry and exit points of storage facilities

# Council Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices

## Article 122 TFEU

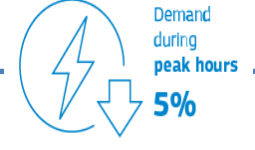
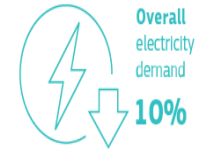


### Public interventions introduced in most of the CPs in the first half of 2022, including:

- ✓ **price caps** for electricity for eligible customers;
- ✓ **obligations** to state-owned companies (generators or wholesale traders) to purchase electricity for the needs of the USS, and in some cases also for the SoLR and SO for losses;
- ✓ **limitations** for wholesale gas **prices** allowing the suppliers to offer the supply of natural gas @ cheaper prices not reflecting actual price;
- ✓ **limiting the profit margin** of traders, suppliers and generators in order to limit the price of electricity to the national industry;
- ✓ **financial compensation** from State to supplier(s) or generator(s) for imposed PSO measures

**\*\* Few of them raised issue of compliance related to proportionality, or incompatibility with EnCT**

**\*\*\* Measures related to financial support – in most cases not amounting to State Aid**

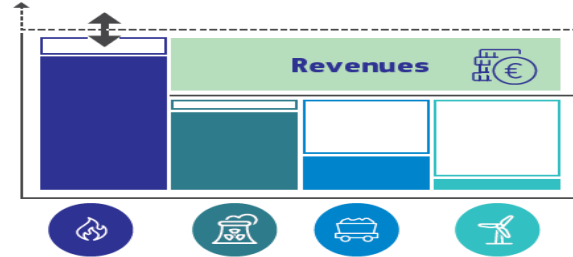


**Demand reduction**  
1.12.2022 – 31.03.2023

- non-binding and binding during peak hours
- market-based measures & may include compensation

**Cap on market revenues and distribution of surplus revenues & congestion income revenues**  
1.12.2022 – 30.06.2023

- mandatory cap max. 180EUR/MWh in all markets on at least 90% of the revenues of all inframarginal technologies
- national crisis measures may define higher cap, other sources, specific coal cap...
- possibility to use congestion income revenues, approved by NRAs
- for financing final electricity consumers and support, and may be topped up from budget solidarity agreements in case of net-import dependence

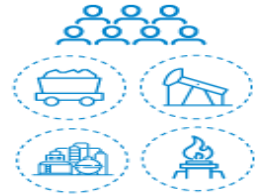


**Retail measures**

- price regulation for SMEs as exception
- sale of electricity below cost, but suppliers should be compensated for supplying below cost

**Solidarity contribution from fossil fuel sector**

- measures on crude oil, natural gas and refinery sectors – binding solidarity contribution, calculated on taxable profit when profit increased 20% in last 4y with a basis of at least 33%, to be used for final consumers, demand reduction, energy intensive companies



# Coordinated Gas Demand Reduction in the EU

Energy saved in summer is energy we can use in the winter!

Not applicable in the Energy Community, but can inspire action

## Council Regulation (EU) 2022/1369 on coordinated demand reduction measures for gas

- based on Article 122 TFEU
- for 1y from 8.8.2022

Aim: safeguard SoS in a spirit of solidarity

- **voluntary** and a **mandatory** reduction of gas consumption **15%** compared to their average consumption in the past 5y
- 1 August 2022 - 31 March 2023
- Council, upon COM proposal, may declare **Union alert** if substantial risk of shortage or high demand)

## European Gas Demand Reduction Plan

Switch away from gas



Incentivise consumption reduction



Reduce heating and cooling





# Better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks

COM Proposal for Council Regulation enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks, 18 Oct 2022



**Demand aggregation and joint gas purchasing to negotiate better prices**

Energy Community

**Contracting Parties are eligible to participate in the Joint Procurement Mechanism – EU Energy Platform**

- leverage gas demand to attract reliable supplies from global markets and ensure price stability
- accelerate and facilitate gas contracting, assists in access to gas resources, including for smaller companies
- Shall be operated by an external provider and the aim is to have it ready Q1 2023
- Target - to provide an additional tool for storage filling for the next heating season

**Price correction mechanism** to establish a dynamic price limit for transactions on the TTF gas exchange, and a temporary collar to prevent extreme price spikes in derivatives markets

Proposal for a COUNCIL REGULATION Establishing a market correction mechanism to protect citizens and the economy against excessively high prices, 22 Nov 2023

**Market Correction Mechanism** to protect EU businesses and households from excessively high gas prices in the EU  
\*\*\* safety price ceiling of €275 on the month-ahead TTF derivatives

**Default solidarity rules** between Member States in case of supply shortages



## **Rozeta Karova**

Dr. Rozeta Karova is a legal expert with experience in energy market liberalisation, energy market design, decarbonization and clean energy transition.

For the last twelve years she works at the Energy Community Secretariat, an international organisation based in Vienna, first as an Energy lawyer and then as a Senior Energy Lawyer.

Rozeta Karova is a certified Negotiator Facilitator with plenty of publications on approximation and implementation of energy and climate acquis in the Western Balkans and the Eastern Partnership Countries.

She holds LL.M in European Business Law from Leiden University and a Ph.D in law from the European University Institute in Florence. Her doctoral thesis was the first monograph published about the Energy Community.