

The EU's new Gas Directive (DIRECTIVE (EU) 2024/1788) and its provisions related to retail markets and customers

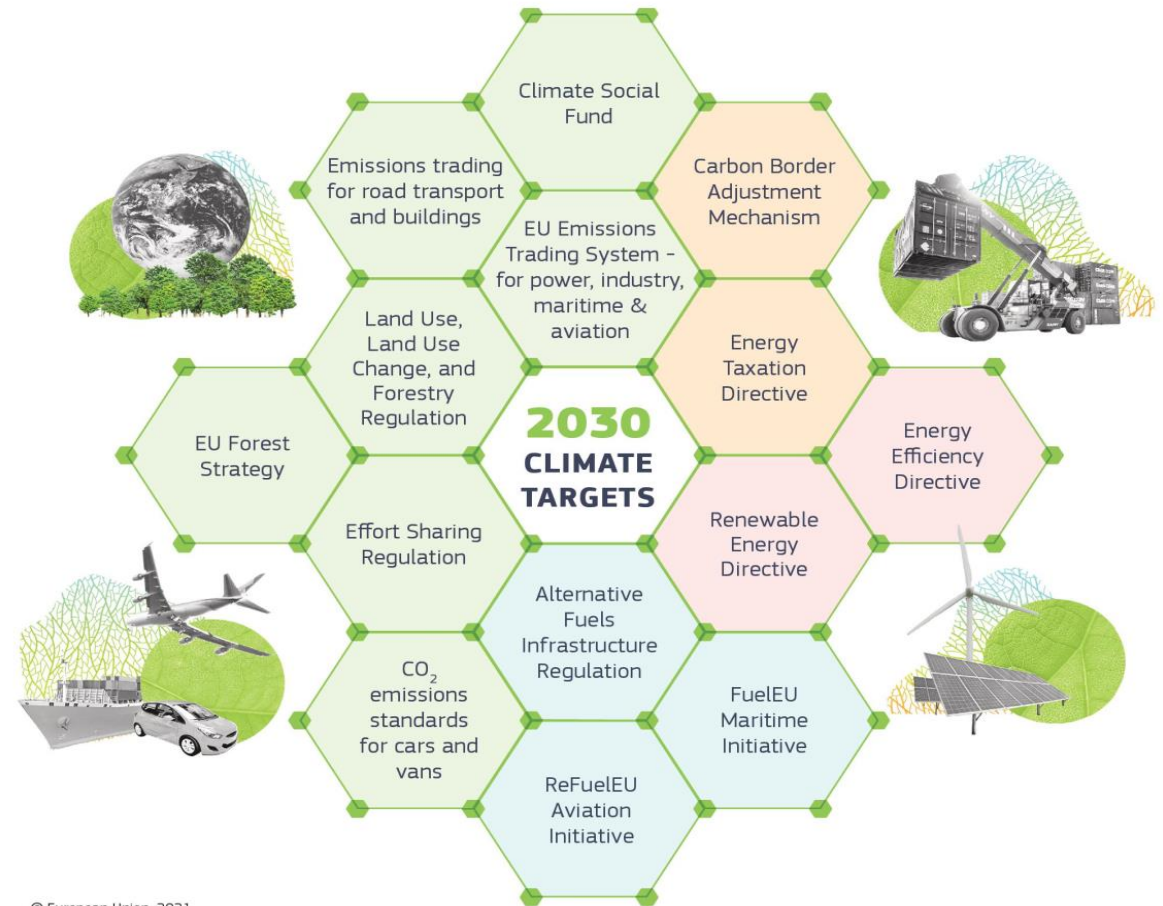
ERRA **Customer Protection Committee**

Online meeting 10. 09. 2024

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EU's Fit for 55 package in general

The „Fit for 55” legislative package aims to reduce the European Union's greenhouse gas emissions by 55% by 2030. It was part of EU's „Green Deal” strategy presented in December 2019, and the legislative package was proposed in July 2021 by the European Commission. The package tackles a very wide area.



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EU's Fit for 55 package – The Decarbonisation Package

On 15.07.2024 the so-called „Decarbonisation Package” – which is a part of the „Fit for 55” package – was published in the Official Journal of the European Union. The Decarbonisation Package contains 2 legislative acts:

DIRECTIVE (EU) 2024/1788 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC

Fit for 55: Council Approves Gas and Hydrogen Market Package



REGULATION (EU) 2024/1789 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (recast)

The history of the new Gas Directive

The old Gas Directive (2009/73/EC):

- was part of the 3rd Energy Package;
- was published on 14.08.2009 and was amended several times;
- contained more general provisions on retail markets and consumer protection.



The (new) Electricity Directive (2019/944/EU):

- was part of the „Clean Energy for all Europeans” package;
- was published on 14.06.2019;
- contained detailed provisions on retail electricity markets and consumers.

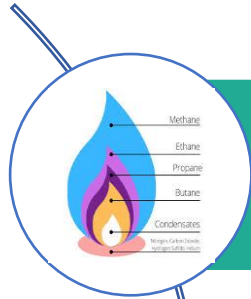
The effects of the energy crisis in 2022 - 2023 (COVID + the European energy crisis)

- European emergency legislation (e.g.: coordinated demand-reduction measures for gas and purchase of it, emergency intervention to address high energy prices, reliable price benchmarks, etc.)
- EMD (revision of the electricity market design): Directive 2024/1711/EU and Regulation 2024/1747/EU(, both published in the OJ on 26.06.2024

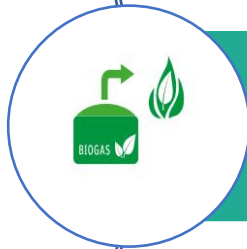
All of these influenced the New Gas Directive, **especially the Electricity Directive, whose provisions were mirrored**, as the characteristics of the sector allowed it.



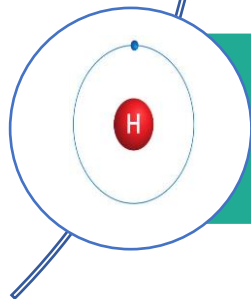
The subjects of the new Gas Directive



Natural gas: Gas that primarily consists of methane, including biomethane, or other types of gas, that can technically and safely be injected into, and transported through, the natural gas system.



Renewable gas: Biogas (gaseous fuels produced from biomass), including biogas that has been upgraded to biomethane, and renewable fuels of non-biological origin.



Hydrogen: Hydrogen is a chemical element.

Not all of them are regulated on the same level or in the same detail!

The general rules for the organisation of the market
Art. 3. - Competitive, customer-centred, flexible and non-discriminatory markets for natural gas and hydrogen

- **Free choice of supplier for natural gas and hydrogen**
- Customers are free to have **more than one supply contract for natural gas or hydrogen at the same time**, provided that the required connection and metering points are established.
- **Prohibition of any undue barriers for within the internal** markets for natural gas and hydrogen.
- Energy undertakings are subject to transparent, proportionate and non-discriminatory rules, fees and treatment, in particular with regard to connection to the network, access to wholesale markets, access to data, switching processes and billing regimes and, where applicable, licensing.
- Member States shall ensure a customer-centred and energy efficient approach in the market for hydrogen. **The use of hydrogen shall be targeted for customers in hard-to-decarbonise sectors with a high greenhouse gas abatement potential where no more energy and cost-efficient options are available.**

The general rules for the organisation of the market

Art. 4. – Price interventions in normal situations



a) Normal situation – free market prices **for natural gas and hydrogen**

- Suppliers shall be free to determine the price at which they supply natural gas and hydrogen to customers on a **fully liberalized market**.
- Member States shall take appropriate actions to ensure effective competition between suppliers and to ensure reasonable prices for the final customers.

b) Normal situation – regulated prices for vulnerable and energy poor consumers **for natural gas**

- In case of **vulnerable and energy poor household consumers** price interventions are possible for an indefinite period, under strict conditions.
- **Even cost-below price interventions are possible!**

c) Normal situation – regulated prices for household consumers and microenterprises **for natural gas**

- Until effective competition for natural is established, Member States may, for a **transitional period**, apply public interventions in the price setting for the supply of natural gas to **household customers and to microenterprises**.
- Strict and additional conditions apply.
- **No cost below pricing is possible.**



The general rules for the organisation of the market

Art. 5. – Price interventions during a natural gas price crisis

On the proposal of COM the Council may declare a regional or Union-wide natural gas price crisis for a year, if the following conditions are met:

- a) the existence of **very high average prices** in wholesale natural gas markets (least x2.5 of the average price of the last 5 years and at least 180 EUR/MWh) which is expected to continue for at least 6 months;
- b) **sharp increases in natural gas retail prices** in the range of 70 % occur which are expected to continue for at least 3 months.

During this crisis, price interventions – under strict conditions – are possible for:

SMEs and essential social services:

- the intervention must be limited to at most 70 % of the beneficiary's consumption during the same period of the previous year
- retains an incentive for demand reduction

Household consumers:

- the intervention must be limited to at most 80 % of median household consumption;
- retains an incentive for demand reduction

During the price crisis, below cost prices are possible, but suppliers are undiscriminated and must be compensated for supplying below cost in a transparent and non-discriminatory manner.



CRISIS

The general rules for the organisation of the market

Art. 6. – Public service obligations

Member States may impose on natural gas and hydrogen undertakings, in the general economic interest, **public service obligations** which may relate:

- **to security, including security of supply,**
- **regularity and quality of supplies,**
- and environmental protection, including energy efficiency, energy from renewable sources and climate protection and to the **price of natural gas supply.**

Such obligations shall be clearly defined, transparent, non-discriminatory, verifiable and shall guarantee equality of access for natural gas undertakings and hydrogen undertakings of the Union to national consumers.



Public service obligations which concern public interventions in the price setting for the supply of natural gas shall comply with the requirements for price intervention!



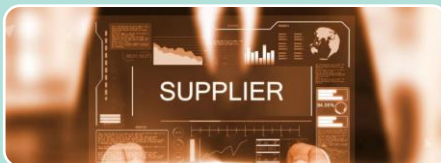
The general rules for the organisation of the market

Art. 8. – Authorisation procedure (licensing)



Licensing is an option

- MSs have the option to use a non-discriminatory licensing regime.
- For the construction or operation of **natural gas facilities, hydrogen production facilities and hydrogen system infrastructure**.



Licensing in case of suppliers

- Only in case of **natural gas suppliers**.
- Member States **may assess the financial strength** and technical capabilities of applicants as criteria for authorisation (hedging).



Procedural provisions

- The energy efficiency first principle must be taken into consideration.
- **Licensing cannot exceed 2 years**, including all relevant procedures of competent authorities, which can be extended by a **maximum of 1 year in extraordinary circumstances**. This applies for judicial appeals, remedies and other proceedings before a court or tribunal, and to ADR as well.
- MSs must provide one or more contact points (one stop shops), which shall, upon request by the applicant guide the applicant through and facilitate the entire authorisation process.

Consumer Empowerment and Protection and Retail Markets

Art. 11. – Basic contractual rights - 1

MSs must ensure that all final customers can conclude natural gas and hydrogen supply contracts, regardless of the MS in which the supplier is registered.



The supply contracts must contain the following elements:

- a) the identity and contact details of the supplier, including address, email address and a consumer support hotline;
- b) the services provided (including the product and tariff name), the main features of the services provided, the service quality levels offered, and the time for the initial connection;
- c) the types of maintenance service offered;
- d) the means by which up-to-date information on all applicable tariffs, maintenance charges and bundled products or services can be obtained;
- e) the duration of the contract, the conditions for renewal and termination of the contract and services, including products or services that are bundled with those services, and whether terminating the contract without charge is permitted;

The supply contracts must contain the following elements:

- f) any compensation and the refund arrangements which apply if contracted service quality levels are not met, including inaccurate or delayed billing;
- g) where the environmental performance, including where relevant carbon dioxide emissions, is promoted as an essential feature, clear, objective, publicly available and verifiable commitments provided by the supplier and, in the case of supply of renewable gas and low-carbon gas, certification of the renewable gas and low-carbon gas supplied in accordance with Article 9;**
- h) the method of initiating an out-of-court dispute settlement procedure in accordance with Article 25;
- i) information relating to consumer rights, including clear and understandable information on complaint handling and how and where a complaint can be submitted and all the information referred to in this paragraph, **that is clearly communicated on the bill or the hydrogen or natural gas undertaking's website;**
- j) where relevant, information on the provider and the price of products or services that are tied to, or bundled with, natural gas or hydrogen supply.**

Consumer Empowerment and Protection and Retail Markets

Art. 11. – Basic contractual rights - 3



Final customers shall be provided with a single summary of the key contractual conditions in a prominent manner and in concise and simple language.



MSs shall require suppliers to use a common terminology. COM will provide non-binding guidance in this regard.



Final customers shall be given adequate notice of any intention to modify contractual conditions and shall be informed about their right to terminate the contract when the notice is given. **In case of price changes, final customers must be notified no later than two weeks, in case of household customers no later than one month before the adjustment comes into effect.**

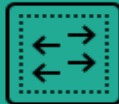


In case of supplier switching, customers must receive their final bill within 6 weeks.

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Art. 12. – Switching and switching-related fees

All natural gas and hydrogen customers have the right to switch, and are entitled to switch within the shortest possible time with the **maximum of 3 weeks** from the date of the request by the customer. **By 1 January 2026, the technical process of switching supplier or market participant shall take no longer than 24 hours and shall be possible on any working day.**



Collective switching schemes for household customers for natural gas and hydrogen.

Final customers must be provided information on supplier switching in a user-friendly format, including through the single points of contact.

MSs shall ensure that **at least household customers, microenterprises and small enterprises are not charged any switching-related fees for natural gas and hydrogen, bundled offers included. Terminations fees are only permitted in case such customers voluntarily terminate fixed-term, fixed-price supply contracts before their maturity**, provided that such fees:

- (a) are part of a contract that the customer has voluntarily entered into; and
- (b) are clearly communicated to the customer before the contract is entered into.

Such fees shall be proportionate and shall not exceed the direct economic loss to the supplier or the market participant.

In case of bundled offers, customers shall be able to terminate individual services of a contract. The permissibility of contract termination fees shall be monitored by the NRA/competent national authority.

Short notice termination for gas supply contracts.

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Art. 13. – Consumer rights and protection in relation to the phasing-out of natural gas



PHASED OUT

During the phasing out of natural gas:

- network users concerned and other relevant stakeholders, in particular consumer bodies **to be consulted**
- network users, final customers and relevant stakeholders to be informed sufficiently in advance of the planned date, the procedure for disconnection, the steps planned and the relevant timeline,
- final customers **to receive information on and have access to sufficient advice on sustainable heating options, as well as information on financial support through relevant bodies**
- **the specific needs of vulnerable and energy poor customers are taken into consideration.**



Obligation for a comparison tool (CT) for natural gas

- at least for household customers, and
- microenterprises and small enterprises with an expected yearly consumption of below 100 000 kWh



Requirements for the CT

- Independent, indiscriminating, clear, accurate and up-to-date, be accessible to persons with disabilities, be able to compare bundled offers and at least one CT should cover the whole market.
- The CT can be operated by the NRA or by a body granted a trust mark issued by an authority.



New provision compared to the Electricity Directive

- MSs may require CTs to include comparative criteria relating to the nature of the services offered by the suppliers, including the single unit price, all charges and information on discounts, and, where applicable, environmental performance.
- When establishing those criteria, MSs must consult the relevant stakeholders.

Consumer Empowerment and Protection and Retail Markets Art. 2 (75) and 15. – Active customers on the market for natural gas - 1

After the electricity sector, the concept of active customer active customer is also introduced in the Gas Directive:

Active customer: a **final customer of natural gas, or a group of jointly acting final customers of natural gas**, that:

(a) consumes or stores renewable gas which is produced:

- i. **within its premises located within confined boundaries;** or
- ii. where permitted by the Member State concerned, **within other premises;**



(b) provided that its activities do not constitute the final customer's primary commercial or professional activity and comply with the law applicable to renewable gas production, in particular in relation to greenhouse gas emissions:

- i. **sells self-produced renewable gas using the natural gas system;** or
- ii. **participates in flexibility or participates in energy efficiency schemes;**

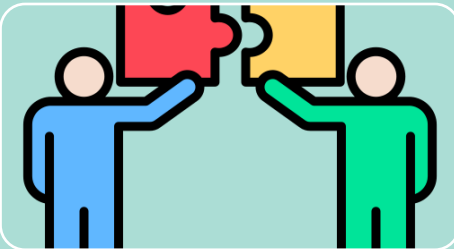
Member States shall ensure that final customers, **in particular from the agricultural or public sectors**, while **maintaining their rights as final customers**, are entitled to act as active customers without being subject to disproportionate or discriminatory technical requirements, administrative requirements, procedures and charges, and to network charges that are not cost-reflective

Consumer Empowerment and Protection and Retail Markets Art. 2 (75) and 15. – Active customers on the market for natural gas - 2



Rights and obligations of the active customer

- entitled to **operate directly**; to **sell self-produced renewable natural gas** using the natural gas system; to participate in energy efficiency and demand-shifting schemes; to involve 3rd party
- **subject to cost-reflective, transparent and non-discriminatory network charges**, ensuring that they contribute in an adequate and balanced way to the overall cost sharing of the system; financially responsible for the imbalances they cause



Jointly jointly-acting active customers

- MSs may have **different provisions applicable to individual and jointly-acting active customers** in their national law, provided that all rights and obligations under this Article apply to all active customers.
- any difference in the treatment of jointly-acting active customers shall be proportionate and duly justified



Active customers that own facilities that store renewable gas:

- have the right to a grid connection within a reasonable time;
- **are not subject to any double charges, including network charges, for stored renewable gas remaining within their premises;**
- are not subject to disproportionate licensing requirements or fees;
- are allowed to provide several services simultaneously, if technically feasible.

Consumer Empowerment and Protection and Retail Markets

Art. 16., Annex I – Bills and billing information

Requirements for the bill and billing information:

- in general: accurate, easy to understand, clear, concise, user-friendly and presented in a manner that facilitates comparison;
- both for natural gas and hydrogen;

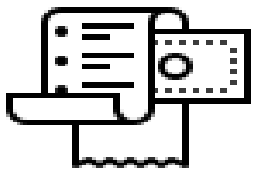


Frequency of billing and the provision of billing information:

- billing on the basis of actual consumption shall take place **at least once a year**;
- where the final customer does not have a meter that allows remote reading actual consumption **must be made available in every 6 months, once every 3 months, if requested or where the final customer has opted to receive electronic billing**;

Detailed bill requirements in Annex I:

- Very detailed requirements: Data on the supplier, tariff, comparisons of current consumption with the consumption for the same period in the previous year in graphic form; historical consumption data for the last 3 years, energy mix, etc.
- Changing the content of the bill: MSs must consult consumer bodies beforehand.



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Art. 17., Annex II – Smetering systems in the natural gas system



Smart metering is strongly promoted, Member States shall proceed with the deployment in their territories of smart metering systems **after a cost-benefit assessment, in which MSs may make separate assessments for different categories of customers and customer groups** (household customers, microenterprises, SMEs and industry).



Depending on the result of the cost-benefit assessment, if the result is:

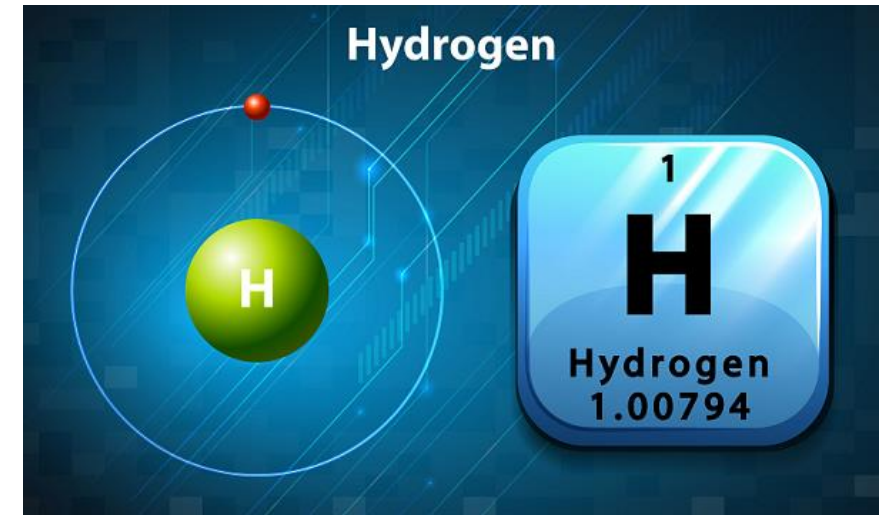
- favourable: at least 80% of end users must be equipped with smart meters **within 7 years**;
- unfavourable: the assessment must be repeated if **significant changes in technology market development happen**.



MSs that proceed with the deployment of smart metering systems shall ensure that final customers contribute to the associated costs of the deployment in a transparent and non-discriminatory manner,

Consumer Empowerment and Protection and Retail Markets
Art. 18. – Smart metering systems in the hydrogen system

In the case of hydrogen, **the deployment of smart metering systems is mandatory, except for household customers**, where smart metering may be mandatory depending on a cost-benefit analysis, otherwise the rules applied in the natural gas system are applicable (e.g. review of a cost-benefit analysis with unfavourable results).



Consumer Empowerment and Protection and Retail Markets

Art. 19. – Functionalities of smart metering systems in the natural gas system



Accurate and authentic measurement, the ability to display current and past consumption data.



Compliance with data and cyber security requirements.



Data on natural gas consumption to be made available to consumers or third parties acting on their behalf through a standardized communication interface or remote access, in an easily understandable format.



Advice and information for end users before the installation of smart meters.



Smart metering systems must enable end-users' consumption to be measured and settled at the same period as the shortest settlement period used in the national market.



Ensuring the right to data portability.

Consumer Empowerment and Protection and Retail Markets **Art. 20. – Entitlement to a smart meter for natural gas**

Where the deployment of smart metering systems has been negatively assessed as a result of the cost-benefit assessment and where smart metering systems are not systematically deployed, **MSs must ensure that customers are entitled, on request, while bearing the associated costs, to have installed or, to have upgraded a smart meter.**



MSs or designated competent authorities shall:

- a) ensure that **the offer** to the customer requesting the installation of a smart meter **explicitly states and clearly describes:**
 - i. **the functions and interoperability** that can be supported by the smart meter and the services that can be provided as well as **the benefits that can be realistically attained** by having that smart meter at that moment in time;
 - ii. **any associated costs to be borne by the customer;**
- b) ensure that the smart meter is installed within a reasonable time, and **no later than 4 months;**
- c) regularly – **at least every 2 years, review and make public the associated costs, and trace the evolution of those costs** as a result of technology developments and potential metering system upgrades.



Obligation for conventional meters

- MSs must ensure that every final natural gas customer that does not have smart meter is provided with an individual conventional meter that accurately measure their actual consumption.



Possibility for exemptions

- For household customers that do not use natural gas for heating purposes, where the deployment of such meters is not technically possible, financially reasonable or proportionate to the potential energy savings.
- For non-household customers located in buildings where the majority of customers are household customers eligible for the exemption, if the deployment is not technically feasible.

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Art. 22. – Data management

When laying down the rules regarding the management and exchange of data, Member States or the designated competent authorities shall specify the rules on the access to data – including metering and consumption data as well as data required for customer switching, and other services - of the final customer by eligible parties.



Duties and obligations

- No additional costs can be charged to final customers for access to their data or for a request to make their data available.
- MSs are responsible for setting the relevant charges for access to data by eligible parties.
- MSs must ensure that any charges imposed by regulated entities that provide data services are reasonable and duly justified.

Member States or, where Member States have so provided, the designated competent authorities shall authorise and certify or, where applicable, supervise the parties responsible for the data management, in order to ensure compliance.

Consumer Empowerment and Protection and Retail Markets

Art. 23. – Interoperability requirements and procedures for access to data in the market for natural gas

Member States

In order to promote competition in the retail market for natural gas and to avoid excessive administrative costs for the eligible parties, MSs shall facilitate the full interoperability of energy services within the Union.



The European Commission

COM will adopt, by means of implementing acts, **interoperability requirements and non-discriminatory and transparent procedures for access to data.**

Member States

Member States shall ensure that **natural gas undertakings apply the interoperability requirements and procedures for access to data.**

Consumer Empowerment and Protection and Retail Markets

Art. 24. – Single points of contact

Member States shall ensure that **single points of contact** are established to provide all customers, **including those without access to the internet**, with all necessary information concerning:

- their rights,
- **certified comparison tools**,
- **available support measures, including those targeted at vulnerable customers**,
- the applicable law and out-of-court dispute settlement mechanisms available to them in the event of a dispute.

Such single points of contact may be part of general consumer information points and points of contact prescribed by other EU legislation.



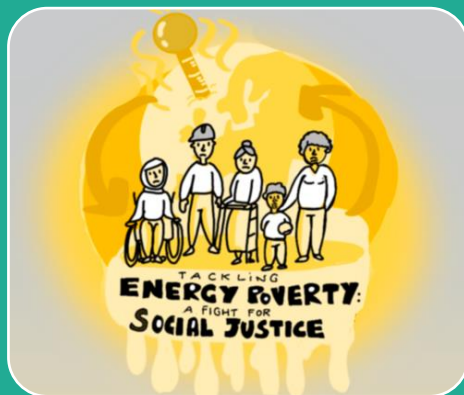
- 1) **Final customers must have access to simple, fair, reasonable, transparent, independent, cost-effective and efficient out-of-court mechanisms for the settlement of disputes through an independent mechanism, which provide, where warranted, reimbursement and compensation.**
- 2) **Where necessary, alternative dispute resolution entities must cooperate to provide simple, fair, transparent, independent, effective and efficient out-of-court mechanisms for the settlement of disputes that arises from products or services that are tied to, or bundled with, any product or service falling under the scope of the Gas Directive.**
- 3) **The participation of natural gas undertakings in out-of-court dispute settlement mechanisms for household customers shall be mandatory.**
- 4) **Member States shall assess the functioning of their out-of-court dispute settlement mechanisms referred to in this Article.**





Obligations regarding regarding vulnerable and energy poor customers

- MSs must take appropriate measures to protect final customers, and shall, in particular, ensure that there are **adequate safeguards to protect vulnerable customers and customers affected by energy poverty.**
- **Each MS must define the concept of vulnerable customers** which may refer to energy poverty.
- MSs must take appropriate measures to **protect final customers in remote areas** who are connected to the natural gas or hydrogen systems.



Energy poverty definition (Energy Efficiency Directive - 2023/1791/EU Art. 2 (53))

Energy poverty means a **household's lack of access to essential energy services**, where such services provide basic levels and decent standards of living and health, **including adequate heating, hot water, cooling, lighting, and energy to power appliances, in the relevant national context**, existing national social policy and other relevant national policies, caused by a **combination of factors, including at least non-affordability, insufficient disposable income, high energy expenditure and poor energy efficiency of homes;**

Consumer Empowerment and Protection and Retail Markets

Art. 27. – Energy poverty and decommissioning of the natural gas distribution network



The Commission shall **provide guidance on the protection of vulnerable customers and customers affected by energy poverty** during the planning and carrying out the phase-out of natural gas or when natural gas distribution networks are being decommissioned.





Obligation to prevent disconnections

- Member States shall take measures to **prevent the disconnection of vulnerable customers and customers affected by energy poverty.**
- In relation to vulnerable customers, those measures must comply with Art. 26.



No disconnection or contract termination during complaint handling/ADR

- Member States shall ensure that suppliers **do not terminate contracts with, or disconnect, customers during complaint handling or out-of-court dispute.**
- Member States may take appropriate measures to avoid an abuse of process.








Examples of measures for MSs to avoid disconnection:

- promoting voluntary codes of suppliers and customers aiming to prevent and manage situations of customers in arrears, which may concern support to customers to manage their energy use and costs, including flagging unusual high-energy spikes or usage, offering appropriate flexible payment plans, debt advice measures, improved communications with customers and support agencies;
- promoting education and awareness of customers about their rights and debt management;
- access to finance, vouchers or subsidies to support payment of bills.

Consumer Empowerment and Protection and Retail Markets

Art. 28. – Supplier of last resort (SOLR)

-  **MSs must establish a SOLR regime** or take equivalent measures to ensure continuity of supply at least for household customers. SOLRs must be appointed in a fair, transparent and non-discriminatory procedure.
-  **Final customers who are transferred to SOLRs must not lose their customer rights.**
-  **MSs must ensure that SOLRs promptly communicate their terms and conditions to transferred customers and ensure seamless continuity of service for such customers for the period needed to find a new supplier.**
-  **MSs must ensure that final customers are provided with information and encouragement to switch to a market-based offer.**
-  **MSs may require a SOLR to supply natural gas to household customers and SMEs who do not receive market-based offers. In such cases, the provisions on price intervention apply.**

Publication, entry into force and transposition



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following its
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04.08.2024



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05.08. 2026.

THANK YOU FOR YOUR ATTENTION!